THE EXACT POLITICIAN, OR, Compleat Stateſman:

Briefly and Methodically Reſolved into ſuch Principles, whereby GENTLEMEN may be Qualified for the Managment of any Publick Truſt;

And thereby rendered uſeful in every Station to the Eſtabliſhment of the Common Welfare.

WRITTEN BY

LEONARD WILLAN Eſq;

Rectè Summum agere
Rectè eſt Supremum haberi.

E 7

LONDON:

Printed for *Dorman Newman*, and are to be ſold at his Shop near the *Lame Hoſpital* in *Little Britain*.

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To the Right Honourable,

The LORDS *and* COMMONS,

Assembled in Parliament.

Right Honourable,

THough the Dignity of the *Subject* might require a more emi- *Introductor* to meet a fair Re- from so Honourable a *Convention*; yet since his Loyalty presumeth to prefer *It* to your View, may yield, in his Obscurity, so clear a Proof of his Integrity to the Common *Interest*, as to have been divested of those *Civil* Ornaments, which might have lent more Grace unto the *Presentation*: Vouchsafe to amplifie Your Honour in Your own Benignity, descending to accept a Present of this *Nature* from so mean a Hand: And graciously be pleased to reflect upon the *Enterprise*, as a *Production* took extraction only from the late Disorders of that Irregular *Authority* had usurped *Yours*: Under Disguise of faithful *Patriots*, in Persuit soly of the *Publick Good*; and but designed (in this *Model* of our *Civil Welfare*) to fore-shew (before the Issue had disclos'd the Fallacy) how far

They were remov'd from *Their* pretended *Course*, as also how unlike *They* were the Persons they pretended. If the Endeavour reach not the Intention of the *Work*, excuse the Incapacity derived from *Their* Persecution, which hath depriv'd the Agent of those *Aids*, were requisite to so Material a *Structure*, which in the *Simitry* and *Use* hath also lost the Lustre of *Her* Native Ornaments, in due Submission to the *Civil* Order, lest the enlightning of some *Principles* might minister to the Distemper of *Incendiaries*, whose innate Rancor would convert their proper Aliment to Poison. The *Breaches* are left obious to the shalloweſt Sence, wanting due time to cement the *Abruption*, surprised in the manner of *Exception:* which *Defects* meeting your Indulgence, may happily lend new Vigour to repair the Errors, the next *Attempt*, in order, should exact the *Exterior* Edifice inherent to the *Civil Fabrick*. Being

Your Honours

Humbly Devoted Servant,

L. WILLAN.

To the READER.

Reader,

WHen thou ſhalt exactly Reflect on the proper uſe of Writing, thou mayeſt admire that any rational Capacity, endued with the ſmalleſt vacancy, ſhould ſuffer their inſtable Thoughts to become ſo impetuouſly agitated, ſcatter'd, and disbanded from their own Direction by exterior Objects, as not to caſt up the reſult of their Diſcourſes in a Method, might form their proper Judgements, and inform Anothers, may poſſibly depend on their Inſtruction: But when thou ſhalt maturely alſo weigh the Conſequents to their Publiſhing, thou mayeſt become yet more aſtoniſhed to finde an Undertaker; ſince neither Satisfaction nor Advantage can Ballance the Adventure, were the Subject never ſo material, or the Structure never ſo Regular: Envy and Ignorance have their inevitable Ranckor. Nor can Joves Boſom ſhelter from their Perſecution. As Æſop hath ingeniouſly figured in the Beetles Conteſtation with the Eagle: Which Moral Obſervation may meet a Paralel in the Practice of Club, and Coffee Conſorts, who exerciſe all ſorts of Tyranny on every Civil Tranſaction, Publick, or Private; lend It what Nature, Form, Weight, Iſſue, or Events beſt fits that humour doth miniſter to the Diſtemper of their Paſſion. From whence may be concluded, under how implacable a Configuration, muſt iſſue this Production, eſpecially when Reflection ſhall be made on the improper Conſtitution of this Age, both in Reference to the Nature hereof and the Subject. The Firſt (ſo far removed from the depraved Reliſh of the Time) It hath nor Badge nor Signature of Hudebras, or Don Quixot to warrant a Reception. The latter only but the Object of the vulgar fury, muſt of neceſſity be condemn'd before It is diſtinguiſhed. The Title doth imply no leſs, The Miniſter of State. Yet ſince the Averſion of the Populace is raiſed on the Impropriety of their Miniſtry: And the Impropriety of their Miniſtry conjecturally derived from the Enlargement of their Fortunes. The Perſecution may poſſibly be abated in the Diſcovery of a more hopeful Character, where the very ſhadows of peculiar Intereſt are avoided.

Divers Adherents to a Civil Miniſtry may poſſibly fall under this Diſtinction; but let not him that holds the painted Staff of an Authority, pretend thereon to ſuch a Dignity, leſt he intitle the moſt Infamous to his Aſſociation. There is a vaſt Extent of Latitude in ſence between the Miniſter of State, and the Miniſter to a State. That ſets at Helm, and by his Compaſs ſteers the Civil Bark in Her intended Courſe. This but removes the Rubbiſh might obſtruct it. So likewiſe the Superiour Attribute

meets a Difference *in Diſtinction. The* General *and the* Special, *The* Publick *and the* Private Miniſter of State. *The* Special *joyntly hath Adherence only to the Princes* Council. *The* General *likewiſe to the Peoples* Truſt. *The* Publick *by Commiſſion agitates on* Forreign Negotiations. *The* Private *properly is Superintendent to the* Reſt. *This* Treatiſe *pretends only Reference to the* Firſt, *the fury of the* Populace *only to the* Laſt. *If the* Deſign *not clearly figureth the Intention of the* Work. *The Incapacity reſts only in the* Civil *Infirmity, whoſe Diſtemper is yet ſo ſenſible, the parts thereof will not endure the handling without the danger of a Rupture: In which Reſpect, the intended* Proofs *Inherent to the preſent* Practice *and* Poſitions, *are become diſſected from the Propriety of* This Structure. *If the* Materials *ſhock, thy Apprehenſion, know, that the Abſtruſeneſs of a* Tongue, *which only is* derivative, *may plauſibly aſſume the Liberty to ſelect borrowed* tearms, *may lend the ſenſe more weight or more propriety, till common uſage lend them an Authority. How elſe ſhould Diſtinction of the new Faſhions be communicable. How new Intelligence become diſtinguiſhable. If their Contexture lend the* Style *a ſeeming ſingularity, conſult thy* Ear *from whoſe Agreement only they aſſume their* Order. *The Errors are contracted in Impreſsion diſtinguiſht in their incongruity, be pleas'd to rectifie or to excuſe, and accept of the* Work *(though but defective) in favor of the* Object *It purſues, The* Common-Intereſt: *In whoſe Reſerve the higheſt Diſcords meet an Unanimity.* Vale.

L. WILLAN.

THE

A TABLE
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Theſe are the National and Interior *objects* of our *Miniſter.*

The

THE PERFECT STATES-MAN; OR, Miniſter of State.

I. *The Definition of the Subject, and the Extent of the whole work.*

HAving propounded the *Subject* of our *Treatiſe* in the *Title* hereof, to avoid Obſcurity; 'twill be neceſſary to Trace out the Foundation, and draw a Platform of the whole *Work*, ere we lay hand unto the *Structure*. In Order to our Propoſition, Firſt to diſtinguiſh what a *Miniſter* of State is; then to conſider *Him* in his *Perſon* and *Endowments*, both *External* and *Internal*, then in *His Office*, and ſeveral *Objects* thereof, both *National* and *Foreign*.

Perſueing this *Method*. The *Inſcription* taken in the Latitude of Sence, may ſeem to imply either *Prince*, *Councillor*, or *Magiſtrate*; yet ſtrictly examining their Relation to this *Attribute*, we ſhall find neither the *Former* nor the *Latter* comprized in this *Denomination*. The priviledge of a *Prince* being rather to *Determine* then *Adviſe*. And the Duty of a *Magiſtrate* ſimply to diſpenſe the *Laws* enacted according to the *Letter*, without conſulting of their Nature; we will therefore

limit the distinction of a *Minister of State* under this Notion; *He that hath in his Council a peculiar Influence over the affairs of a Common-wealth under what Government soever.* But to enlarge farther on the Exposition, though *Council* be the ground of his Character, yet we exclude him not from the Capacity of *Action*, or (in Free Common-wealths) of *Determining*, either Essentially, by force of Reason, or Acidentally by Advantage of Number. Notwithstanding the *Nature* of his Function may without either properly subsist, as not inherent to his *Ministry*.

II. *The Principles considerable in his Person, and the Exterior Dependants.*

1. *Of his Form.*

THe *Nature* of our *Subject* thus prefigured, we pass to the Consideration of *His* Person, and in Respect of the *Exterior* part, and the Dependances thereon, propound these Principles. His *Form, Birth, Education, Profession, Age, Possessions, Community, Demeanor, Speech.* Though the *First* Endowment may seem to be a very inconsiderable part of our *Subject*; yet since it neither wants the usage of Antiquity, nor Practices of modern Times to lend it weight, we will expostulate the consequence thereof. From Tradition of Antiquity, the sacred *Letter* presents us an authentique proof *thereof, in Saul's* Election, as pointed out by the hand of the *Most High*, in the direction of *His Prophet*, who was so eminent in his Person above the rest of the People, *that he exceeded them all in height from the Shoulders upward*; which the Prophet in his Presentation inferrs as the ground and warrant of his Election. *See you him whom the Lord hath chosen, that there is none like him among all the People.* To which distinction agrees the Poets description of the *Roman* King.

Ipse inter Primas praestanti corpore Turnus
Vertitur, Arma tenens, & tota vertice supra est.

Turnus, the chief, in Stature did exceed,
Holding his Arms, o're tops them by the Head.

From Modern times we will onely insert that *Canibal's* Answer, *Mountaigne* relates, who being at *Rouen*, where *Charles* the Ninth then was, by Interpreter askt what he observed remarkable amongst them, said, *He wondred among other things, why they suffered a little Boy to Rule over them, and made not rather*

rather choice of one of those goodly Personages about him; meaning the *Swissers*; which Inference, though seeming to mark out but a rude and particular part of the *Form*, as from a Native not acquainted with the Rules of Civil Policy, having for Object onely the First Principle of *Rule*, Force: Nor but a peculiar Office, differing from our *Subject*. Yet since the Faculties of the Mind, of which this is but a shadow, are equally necessary to *Both*, we may appropriate generally all Dimensions of the Body, indifferently to *Either*. *Ipsi animi magni refert quali in corpore locati sint, multa enim è corpore existunt, quæ acuent mentem, multa quæ obtundunt. It is very material to the exercise of the Soul, what body it is placed in; many things existing from the body, which sharpen, many which may stupifie the mind.*

Agros divisere atque dedere,
Pro facie cujusque & viribus ingenioque,
Nam facies multùm valuit, viresque vigebant.

To Forme, Strength, Wit, all Power yield,
To give and to divide the Field,
The Beauty of the face doth charm,
And reinforce the vigor of the Arm.

Aristotle hereto intitles the right to Command, affirming the *Indians* and *Æthiopeans*, from hence make the Election of their Magistrates and Kings; and *Plato* thought it necessary to the Conservators of his Common-wealth. To search farther into the ground of such an institution; we must conclude it to be raised from a conjecture, that the exactness of the *Form* gives either Evidence, that the Matter hath received a more perfect Impression of the Image of the Maker: Or, as the Naturalists say, that the disposition of the Soul answers the dimensions of the Body; as Twinns from one Original, the natural Temperature.

A proof to the first Assertion may be deriv'd from the composure of the *Word Incarnate*, who (though *Tertullian's* Reverie hath other ways figured Him) was, without doubt, in his Person the most beautiful among men, according to *Pub. Lentulus* ocular Testimony of him to the *Roman Senate*. The second Inference hath been so frequently found true, that the observation is (among the *French*) digested to a Proverb, *Lesbornes & les boiteux sont tousjours meschants. The Blind and the Lame* (meaning naturally) *are always vitious*. And according to this Rule, the Poets Figured *Thersites*, which, though it failed much in *Socrates* Constitution, rending the Phisiognomist Judgement of *Him* but ridiculous: yet *Socrates* repaired again the

the Dignity of his Art, affirming that *He* was by Nature such as he had Figur'd *Him*, but by the industry of *His* Mind, He had restrained that Propension. For conclusion therefore, since few or none will so much as struggle with one vitious Inclination, it will be far safer, that we should guide our true Election by this Appearance, though but a frail one, subject to corruption, then yet to hazard it in expectation of a Miracle. To which position may possibly be objected, that since we have limitted the Faculty of our *Minister* in Council, we should as thereto onely proper, prefer the Abilities of the Mind, which commonly supply the Defects of the Body, before the Integrity of the Manners, which follow but the complement of the *Form*; there being in matter of Advice more use of Reason then of Virtue. In answer to the first part of the *Objection*. It may be granted, that ev'n by the advantage of Excess (whereof the extern Deformities are but inherent signs) the soul *more perfectly* in some intemp'ratures may exercise some one peculiar Faculty of the Intellect, then in any one peculiar Temp'rature, how regular soever, as the predominant Humour is more proper to the usage of the Fancy or the Memory; but withal, becomes thereby inferior and defective in the rest. So that we may affirm, since by virtue of the *Animal* Spirits, the Soul produceth her Action, and by how much more pure the Instruments are, by so much more perfect are the effects. The Spirits *Animal* receiving onely this excellence from the Equality of the Temp'rature, whereof the exactness of the Form is but the Character. It of necessity will follow, that from the agreement of the Elements, must issue the most excellent and pow'rful Harmony of the soul. To the sequel of the *Objection*, we will only inferr, that it being too obvious to every sense; how frequently frail Man doth make his *Reason* but a Prostitute to his *Lust*, not only to the abusing of others, but to the deceiving of Himself; it will be requisite to unite *her* to an Object nigher *her* own Nature, to preserve her in her Purity. And conclude, that since the *Almighty* hath not onely excluded the *Impotent*, but the *Deformed* also from *His Ministrie*; We therein have sufficient warrant, not to admit *Him* unadvisedly to *Ours*.

III. *Of His Birth.*

FRom this *Particular*, may properly be derived two Branches considerable to the exact discussion of our *Subject*. The *Place* and *Quality* of our *Minister's* extraction. What concerneth the first Distinction, will, questionless not meet a contradiction

diction; in affirming it to be requiſite, our *Miniſter* be a Native of that Common-wealth, o're whoſe affairs his Council ſhould preſide; inſomuch, as every Perſon hath a Peculiar and innate Affection for the Glory and Proſperity of his proper Nation. Nor are the *Natives* uſually ſo ſubject to the jealouſie of the People on the Miſcariages of publique undertakings, as *Aliens* are accounted. Furthermore, *Natives* receive many other advantages in their early and frequent Habits, which *Aliens* commonly are not endued with. As the perfect knowledge of the National Laws, Cuſtoms, and Nature of the People, with the Facility and Elegance of the Tongue, to expediate or illuſtrate their Diſcourſes. The ſubject of the ſecond Branch inherent to *His* Parentage, preſents to our Examination two Propoſitions whether our *Miniſter* may be accepted from a *Noble* or *Ignoble*; from a *Detected* or *Incenſed* Family. For ſolution to the firſt *Quære*, we will unfold the Inconvenients and Advantages of *Either*. The onely Benefit *Nobility* can promiſe us in *His* Reception, is to give Luſtre and Authority to *His Miniſtry*. The Advantage Ignobility preſenteth us in *His* Admittance, is vulgar ſatisfaction. The Firſt yields, but at moſt, an Ornament to Rule. The Later but Licentiouſneſs in Rule. The Inconveniences wait on Nobility in *Miniſters* of *State*, are *Jealouſie* and *Faction*. As appears between *Cæſar* and *Pompey*, to the Tranſlation of the *Romain* Common-wealth. And between *Hanno* and *Haunibal*; to the deſtruction of the *Carthaginians*. The Diſadvantages attend on Ignobility in a *Miniſter* of *State*, are *Envy* and *Contempt*, as may be viſible in the tranſaction of Affairs, under the Miniſtry of ***** and Others to the ſhaking if not hazarding our Own. In the firſt Ambition moves more Imperceptably., as being more nigh the Object of the Paſſion. In the later more Impetuouſly, as more removed from the Point it reacheth at; ſo that the Conſequence of our Argument will guide us to a Mean participating of the Nature of both Extreams, as moſt expedient to the execution of our *Miniſtry*.

The ſecond Propoſition conſiſting in Parts of different Nature, we may devide them in our Treaty; and firſt take that, which moves, whether our *Miniſter* may be accepted from a *Detected* Family. Of which queſtion ere we determine, it will be neceſſary firſt to propound Another, whether *Mercy* or *Puniſhment* followed the Detection; if *Mercy*, the utmoſt Ground of our ſuſpicion can be laid but on the Seeds of Inclination, contracted from the Impreſſions of Nature, or of Diſcipline, which reaching to no farther certainty, the Party ſafely may be joyned to our *Miniſtry*; induced by Example of *Auguſtus*; who happily convincing *Cynna*, by his proper Evi-

dence of his conſpiracy againſt *Him*, did both the Crime remit, and readmitted him with ſuch ſucceſs, that neither yet by him, nor any other ever after, was any Treaſon, that was viſible, or Practis'd, or deſign'd againſt Him.

If *Puniſhment* hath followed the *Detection*, the Argument will meet with the divided Sequel of the Queſtion, and running in one Currant, fall under the Capacity of One Solution, under the Figure of *Incenſed*. Although it may admit of ſome diſtinction in the Manner; as whether the efficient Cauſe were Juſt or Injurious, Direct, or but Collateral, Nigh, or Remote. Yet, ſince no Obſervation can preſcribe a Limit to Mans Paſſion being generally o're partial Judges in our own Affairs; ſuch Circumſtances will afford but little Difference in the Conſequence. So that we may herein conclude of Both, under one firme Poſition, in a general Excluſion of them from our *Miniſtry*. The dangerous iſſue of Indignation in a *Miniſter of State*; whether juſt or unjuſt, ſprung from Injury or Diſpleaſure, are truly figured in *Cataline*, who, ill-reſenting the Diſgrace of a Repulſe, when he ſtood to be *Candidate* in the *Pontique* Warr, contrived ſecretly the viſible ſubverſion of the *State*. And was not farr off from effecting it. Like evidence may be inſtanced from *Julian*'s far more Juſt, though more unhappy Fury; who on the violation of his Daughter *Caba*, in his abſence, imploy'd on publique exigents, was at Return, poſſeſt with ſo inveterate a hatred againſt the preſent Governour and Government, that he forthwith brought in the *Moors* to *Spain*; who, there in ſundry bloudy Conflicts, being prevalent, became at length Poſſeſſors of the Territories four hundred years together. Nor do ſuch like *Punctillio*'s of our Honor produce leſs violent Paſſions in remote Succeſſions, *They* being of ſuch uſage in moſt Common-wealths, That it is held as neceſſary to the Continuance of their Reputation, to ſucceed to the Quarrels of their Predeceſſors, as for the ſupport of their Livelihood, to Adminiſter to their Goods. And though the Fury hereof oftner doth reflect upon ſome private Family, as the indirect Promoters, or ſecret Contrivers of ſuch Injury or Diſgrace, then on the Head or Body of the State, from whom it was immediately received. Yet are the Conſequences thereof too frequently, as fatal to the One, as to the Other: witneſs the incenſed Proceedure of *Arron*, who on his Adverſary's prevailing againſt him in a Plea indicted for the Raviſhing of his Wife, brought in the *Gaules* to *Italy* to the ſubverſion of his Enemies, and Devaſtation of that Continent.

IV. *Of His Education.*

THough this *Principle* unfoldeth many *Objects* neceſſary to the forming of our preſent *Subject*. Yet ſince moſt of them are rather Preparatives, then Poliſhments, regarding more immediately the Interior (which we are not yet come to, then the Exterior, that we onely are in Hand with) we will here paſs by thoſe *Inſtitutions*, that are uſually proper to the two firſt Ages: *Infancy* & *Puerility*. And taking our *Miniſter* in his *Adoleſcence*, propound onely in Reference to our preſent *Subject*, theſe *Diſtinctions*, as immediately requiſite to *His* Function. *Language, Letters, Travel.*

In his firſt years, while yet the tender Sinews of the *Tongue* are in the Accent plyant to the Direction of the *Ear*. And the Judgement not yet formed to the uſe of weightier *Sciences*. It will be requiſite, that our *Miniſter* apply himſelf to the Aquiſition of forreign *Languages*, ſuch as are uſeful in Community with the Parts wherein he ſhall Officiate. And that *He* may therein attain to what Perfection a ſtranger can, without Corruption of *His Own*, both in Facility and Propriety. It will be Fit *His* School ſhould be the proper Nation, and *His* Inſtructors the Converſation of the moſt Poliſht People in the ſame. Perſueing which Method, *His* Practice herein ſhall neither be an Obſtacle to *His* weightier Studies for the forming of His Mind. Or *His* exterior Exerciſes for the faſhioning of *His* Perſon. There being in moſt Capital Cities in Forreign Parts both *Univerſities* and *Academies*.

But perhaps ſome may here cautiouſly object, that ſince the whole ſcope our *Subject* ſeems properly to aim at, dependeth only on the Sufficience and Integrity of the Mind, which conſiſting not in the variety of *Tongues*: ſuch Procedure will rather prove to us a Penible, Expenſive and uſeleſs Curioſity, then any regular or expedient Inſtitution. In which Objection we will paſs over the *Two* firſt *Inconvenients* which are but the peculiar Means unto the *Acquiſition*, as too mean Conſiderations to ſuſpend our *Argument*; not any thing Material or Excellent, falling in our Capacity to execute or attain without our *Induſtry* and *Coſt*. And in Anſwer to the uſe, alleadge, that no Treaty, either at Home or Abroad, can with Advantage or Dexterity be menaged, without the Knowledge of the Tongue, and Habits of the Nation wherewith we are to Agitate, there being certain *Emphaſis* of Speech and Graces in Action, peculiar to the Expreſſions and Practice of each Nation, which not rightly diſtinguiſht, may make ſo great and irreconcileable a Breach, as may poſſibly fruſtrate the intention of the Conſultation. How ſucceſsful in Foreign Negotiations, agreeable Miniſters may be, is obvious to every Senſe, and how they can be ſo, without that which ſhould render

render them communicable, is a Miſtery not yet explicable.

The next *Object* propounded to our *Miniſter*, is *Letters*, to whoſe free Acceſs, it will be neceſſary to be indued with the *Latine* Tongue, which (though not at preſent *National*) may alſo be to *Him* of farther uſe in Foreign Agitations, wanting *Thoſe* that are, and with all ſufficiently ſerve to the Introduction of ſuch a part of *School-Learning*, as ſhall be requiſite to our *Miniſter*, which ſhall not need to be extended farther, then to lend *Order* and *Propriety* to *His* Diſcourſe: And to free his Spirit from the Tyranny of the ſtrangeneſs of it in Anothers Mouth. Not ſo far to handle *it*, to make it a Fetter to *His* Reaſon, a burden to *His* Memory, a ſervile anticipation of *His* Judgement, or a Diſcord in His Manners. To avoid all which, it will be dangerous to encounter this many headed Monſter (ſuch more in Reſpect of diſagreeing Opinions in Pretenders to her Myſteries, then in her own Nature.) e're the Judgement be perfectly formed, and confirmed, leaſt what *He* thought to Maſter and Poſſeſs for the Advantage of *His* Natural Endowments, Poſſeſs and Maſter *Him* to the Captivity and Extinction of the ſame.

Theſe with Dexterity handled, may prove ſuperficial Ornaments to our *Miniſter*, but the more exactly uſeful and Eſſential to *His Miniſtry*, and in the Exerciſe whereof, *He* ought ſolely to imploy all the Vigor and Induſtry of *His* Mind, are the *Laws* Common or National, Civil or Univerſal. And *Hiſtory* in General; which (for better enlightning of the Circumſtances in Either) ſhould walk Hand in Hand. Not to receive the Notions of *Law*, as unalterable Poſitions. Nor the Traditions of *Hiſtory*, as meer Narratives to ſwell the Memory. But from Hiſtory, to examine the Ground and Occaſions of the *Laws*. The Iſſues and Events of ſuch Councils, ſuch Affairs, ſuch Enterprizes, by what Perſons How Endowed, how Managed, and from the Circumſtances of the Laws to gather true Lights of the ſecret Intreagues of former Ages, by Corruption or Ignorance of the Chronologer ſmothered, Diſguiſed or Neglected, ſo compa ring Occurrents of preceding Times with the Preſent, Collect by ſuch Obſervation, what Laws ſhould be Appealed, what revived, what reformed, what Introduced or Eſtabliſhed. How farr to be Extended and where Limited.

For other pieces of *Learning*, as Aids to our *Miniſter*, we ſhall only propound ſuch Parts of the *Mathematiques*, as ſhall concern the Military Function; whereto he poſſibly may be call'd to be an Arbitrator, either in the Defenſive or Offenſive Part thereof.

The Third *Object* of *His Education* here ſpecified, is Travel

vel. Of which we may ſeem to have treated in the manner of His Acquiſition of Forreign *Tongues*; but ſuch years being not yet ſufficiently mature, to make the true uſe of the moſt weighty Obſervations thereof, we have made it the immediate cloſure to *his* Exerciſe, and the Preface to *His* Practice; The Advantages hereby acquir'd are numerous, among which he ſhall learn the true art of *Converſation*, not ſo much, what concerneth the Civil, Courtly, and Superficial part thereof (though not an immaterial faculty in *his* Function) as the Political and Eſſential. How to endear *himſelf* with the moſt Savage Inclination, How to ſecure *Himſelf* from the moſt fraudulent, How to avoid the Diſtaſtes of the moſt Inſolent, How the Diſgrace of the moſt ſcurrilous, How to ſhun the Incumbrances of the Impertinent, and how the Importunities of the Impudent, How to faſten on the Babler for Intelligence, How on the ſerious for Inſtruction, How to ſuffer immov'd the moſt Contradictory, and how to ſatisfie unprejudiced the moſt Curious. How to diſtinguiſh and make uſe of all Humors and Inclinations. How with Dexterity to be All to All. To preſent every one their Figure, and yet retain his own. And in all theſe to become ſo perfect a Maſter of *His* Paſſions and Purpoſes, that the very ſhadows thereof ſhall never fall under Anothers ſence: To which ſome may perhaps object, that this Myſtery may as well be attain'd at home, without the community of Forreign Parts, diverſities ſufficient both in Manners and Affections, being thereto with us to be found. This being granted, yet the inſenſible and unexamined Habits and Cuſtoms of the place, wherein we were born and bred, ſmother the perfect and viſible Lights thereof; ſo that in the frequency of uſe, we not diſtinguiſh or not conſider others Faculties, nor yet awake our own; whereas each Forreign place we come to, will afford in nature new Proofs and Figures to our obſervation, which Art elſewhere but ſlightly counterfeits

As to other Advantages *Herein*, he ſhall hereby be able to make an Occular Obſervation of the ſtrength or weakneſs of Forts, Harbors, and Paſſages; Riches or Poverty of the Countries, popular or private Diſcontents, Grievances, Fears, Jealouſies, Reſolutions, Court and State Factions, by whom favour'd, how qualified, whereon grounded, how purſued. He ſhall further hereby finde opportunity to form a private and faithful Correſpondent on the Place (under the colour of Curioſity) whereby *He* may have perfect Intelligence of Forreign Occurrents, the better to direct *His* own. Of all which Overtures *He* ſhall make good uſe either in Publick or Private Treaties, ſecret or open Breaches, with many other Advantages, whoſe Nature, Variety, and Uſe would require a particular Treatiſe, and we for brevity will here omit.

V. *Of His Profession.*

WE might without Scruple admit of any Profession to this our *Ministry*, whose quality were no Dishonour to the Dignity *Hereof*, nor Nature repugnant to the vacancy *Hereto*, were it not an Imployment requires the whole Man in Action, and the whole Life for Instruction. If Civil Policy among the *Chaneses*, figuring one mans Life too short, *hath establisht a Custom to introduce a Perfection, even in Mechanick Arts, by enjoyning each Artists Posterity to follow the Function of his Predecessor.* How much more necessary will it be to sequester our *Pretender* to this high difficult and Noble *Mystery*, from all other Negotiations whatsoever. This was the ground of *Philip's Reproach to his Son* Alexander *the Great, when in the Olimpick Games, he bore away the Glory in Musick from all his Emulators, implying that his Excellence herein was a shameful proof against him, to have been remiss in time and Industry, in pursuit of other Endowments more proper to his Regal Dignity.* The motions of the *Civil* Body can no more without hazard of Ruine suffer Cessation or Intermission, then those of the natural. And since the whole strength of the united *Ministers* is little enough to keep this *Machine* in a regular frame, it will be requisite not yet more to weaken their force in the Division thereof betwixt publick and private Interests. The Integrity of *Atilius Regulus figured to us* this inconvenience *in his request to the Senate (on the Death of his Bailiffe) to be dismiss'd from his Embassy in* Spain, *that he might thereby have liberty to manage his own Domestique Affairs, which extended but to thirty seven Acres of Ground.*

To which may be objected, how any then shall usefully be admitted to our *Ministry*, since it is necessary to every mans livelihood, that he have *Profession* or *Possession*, either of which will afford but small Benefit to his Existence, if by him carelesly abandoned; we may answer this Objection with the Remedy borrowed from the Senates example and Answer to the Petition, which was, *That he should repose the Burden of his Domestick Affairs on their Care, who would provide a faithful and sufficient Supervisor to the managing thereof:* Nor is it but in reason equitable, that if our *Minister* addres all his endeavours to the benefit of the Publick, but the Publick should likewise contribute some cost to the support of his private Interests.

It may also here possibly be farther alledged, that there are certain intermitting seasons of Peace and Relaxes of Affairs in most Commonwealths, whose smooth calmness may sometime dispence with their Pilots Diligence, since oft it scarce affordeth matter to *His* Action; to which for reply we infer, that such

ſuch Conſtitutions of *State* are ſubject to the moſt dangerous Acceſſes of Diſtemper. Since neither Nature nor Policy ſuffering Retraction or Demur, muſt of neceſſity, proceeding ſtill, fall into the Contrary Exceſſes; inſomuch as all Extreams meet but in one and the ſame Point. As the moſt perfect Conſtitutions of health in *Natural Bodies*, ſo in *Civil*, are obvious in their Changes, to the moſt deſperate Infirmities.

Another Argument may probably yet hereto be inſerted againſt the ſtrictneſs of our *Miniſters* attendance on his Function, fram'd on the Multitude of Members, which may alternately ſupply each others vacancy: To which we may alledge, That it is the Bane of a Council, where the ſeveral Members Thereof rely upon each others Diligence, Sufficiency, or Integrity; in which none anſwereth His peculiar Truſt, that diſchargeth not his proper Conſcience, and inureth them to handle Publick Affairs (not having immediate Relation to their private Intereſts;) with that Indifference and Neglect, as if they not materially concerned Them. And farther lendeth an Advantage in Abſence of Particulars, to facilate the ſecret Practices of a Faction. Secondly, By ſuch Intermiſſion our *Miniſter* looſeth the preceding Coherences of ſeveral Agitations, whereby his Judgement cannot ſufficiently be enlightened for the future. Thirdly, To the exact conſtituting of a *Council*, is to be obſerved a juſt Proportion, as well as a due Propriety of Parts. If they exceed in number, Diſorder will meet their various Agitations, Obſcurity their mutual Conceptions, and Protraction their poſitive Determinations: ſo that in the iſſue ſmall fruit will follow their Conſultations: If they fall ſhort of a true Dimenſion, it will rather be held a Private Combination then a Publick Convention. If they meet a perfect Symetry in their Union, we muſt then conclude, there being no one Superfluous, there will be no one conveniently to be ſpared; and if there might, on other ground then neceſſity (which admitteth of no Rule) ſuch Licence would be to the reſt, a juſt Plea for like Priviledge: ſo that in the diſmiſſion of one, we may perhaps often want the better part of our Aſſembly.

Moreover, we figure our *Miniſter* ſo excellently endowed both in natural and acquired Habits, that no Age, how happy ſoever in the Production, or State ſo induſtrious in the forming, will at any time, with fertility beget ſuch a croud in this Society, that a ſupernumerary ſhall ſtill be ready to ſupply a Default. In Oppoſition hereto, may yet farther be alledged, that this is ſo ſervile and anxious a condition, that no generous or free-born Spirit (ſuch as is here pretended neceſſary) would ever be won to render himſelf ſubject to. This being granted, muſt either proceed from want of Love to his Countrey, Addreſs in the faculty,

Faculty, or uſe in the exerciſe: could *Milo* elſe, *with delight only for the Advantage of his ſtrength bear every day an Oxe?* And ſhall not our *Miniſter* expoſe himſelf infatigably to the Aſſiduity of ſo glorious an enterpriſe, as the *Common Welfare*, which *Scevola* held dearer then his *Hand*, *Regulus* then his *Eyes*, and *Curtius* then his *Life*; and will not only render his preſent Being uſeful, but neceſſary, and *His* memory not only venerable, but eternal: to which we inſtance not here the enlargement of *His* Fortunes (which muſt follow as a conſequent) being too abject an inducement to bear any Influence over *His* nobler Inclinations: Nor will a plauſible Recreation be at any time wanting in the Excellency and Variety of our *Subject*, though not perhaps thoſe fancied by a looſer Temper: yet ſuch as are more proper to the Relliſh of that Age, we ſhall hereafter figure *Him*: ſo that we here inhibit not *His* Divertiſement, but only thereof change the Quality.

VI. *Of His Age.*

WEre it ſo, that the Abilities of the Mind depended not on the Maturity of years, nor Experience on the frequency of Practice, as may be affirmed from the Tranſactions of *Alexander*, *Scipio*, and *Auguſtus*, in the early undertakings and ſucceſsful Iſſues of their Enterpriſes, whoſe miraculous Fortunes ſeem to have had a more ſecret Foundation than humane Reaſon can either frame or diſcover. Yet to educe ſuch Faculties to a uſeful Exerciſe, it were expedient, Time ſhould infuſe a perfect Allay to the natural Temper, the better to withſtand the Proof of every tryal, whereby neither the high fervour of the Blood in Youth might be too prone to tranſport the captive will to ſuch a wilde Temerity in Action, as to attempt on any Difficulty: nor yet the frigid ſloth of Phleame in Age might ſo benum the vital Spirits, as in a timid Jealouſie to reſtrain the paſſive will from ev'ry ſeeming oppoſition: Of which extreams the Danger to avoid, we Figure this our *Miniſter* of that *Age*, which Naturaliſts ſtyle, *Ætas Conſiſtens*, betwixt 35. and 48. In which years, Nature ſeems in her courſe to have attained a kinde of Repoſe, having as then in man compleated her deſigned work, when no longer employing her vigour on the diſpoſing of her edifice: nor as yet ſhrinking under the burden of our frail Compoſure, ſeems at a ſtand to gather ſtrength againſt the aſſaults of the ſucceeding time: Not that on ſuch terms we ſo preciſely fix, as never to admit Exception in our choice, ſince many times we ſee, Nature her ſelf in the Defect or exact Diſpoſition of the matter, protracteth or anticipates her

her courſe: but that we might receive a general Note to guide our purpoſe ſo nigh Perfection, as natural Lights may reach to.

From which Argument ſome curious Fancy may perhaps collect Matter to inſert (if not by way of Oppoſition, by way of an exacter Propoſition) That it were better to form our *Council* of ſundry *Ages*, following herein the Pattern of a Natural Body, which is conſtituted in Parts of ſeveral Tempers, to the end, that what One Member were defective in, might be ſupplyed by another.

To which we may alledge, That Nature hath conſtituted the Body in parts of differing Tempers, in Reſpect of the Aptitude thereof to differing uſes and Miniſtries: And ſo having divers ends, muſt (of neceſſity, to the perfection of her work) make uſe of Inſtruments of diſtinct Capacities. But our *Civil* Body, though formed of ſundry Members; yet having but one only Object, It were rather more proper (if poſſible) that they ſhould ſo ſympathize in their tempers, that no one might thereby diſſent from other in their natural Lights: But from their equal endowments might reſult an uanimous Agreement in their Conſultations.

It may yet hereto farther be infer'd, That men are often more ſucceſsful in the ſearch of Truth, by interjected Doubts, and Oppoſitions formed from diſagreeing Opinions, then by the general Allowance of aſſenting Judgements, *Which hath ſometime condemned Truth it ſelf for Hereſie*, and may perhaps be the Reaſon, why *Solomon* ſaith, *In the multitude of Counſel there is ſafety.*

This granted, by diſſenting Repugnances, Truth may oftentimes be brought to Light, but far more frequently, is by ſuch Conteſtation ſmothered in the Iſſue, leaving the Idea only of an unform'd Monſter. Moreover, if ſuch Diſcuſſions were needful to Truths Diſcoveries, theſe (ſo well as in obſtinate Differences) might be otherwiſe ſtated in Agreeing Suppoſitions, which though oftentimes but ſlenderly ſupported, wanting the Paſſion of a proper Owner; yet may they unto every common ſence, afford ſuch Lights, even in their firſt Diſcovery, as to diſcloſe the Neceſſity of their farther Agitation: which bearing in it ſelf but weight, will want no Proſecution.

But we may peradventure meet with ſo repugnant a Spirit, as would attempt to force us out of our purſued Tract, with *Mountains* Obſervation, *That Affairs are ſeldom ſucceſsful, when ſifted ſo fine in their inherent Conſequences, as to admit no ſhare for Chance to work upon, which notwithſtanding will be the chiefeſt Agitator in the managing. Whence groſſer mindes are oftentimes more happy in their Conſultations, then more refined Judgments.*

To which we answer, That it is safer and more satisfactory to a generous minde, as *Alexander* said, when advised to take the Advantage of the night to assail his Enemies more numerous then his Force; *That he had rather suffer the injury of his Fortune, then the shame of his Victory.* To fail under the conduct of that Light, God in Nature hath afforded us, then to be successful either in the Opposition, Digression, or Omission of her Prescriptions.

Furthermore, since every Age hath at least his innate propension to peculiar Imperfections, it will be safest to accept of such seasons, as are most remote from the Extreams.

Peradventure we may here yet meet the Authority of *Solomon*, as an Objection to our Argument, *Whoso often preferreth Gray Hairs to the Ministry of Council.*

We must Hereto so far agree, That *Age* (if rightly practised) wins great advantages to the Perfection of our *Ministry*, in the Observation of a long Series and Contiguity of Affairs, confirming still the Judgement by an Occular Proof, whereby It consequently becomes more visibly effectual to a civil Consultation. But it must be with this Limitation, That such years meet so perfect a Consultation, as may retain Capacity properly to dispence those Notions. Since we observe it evident by daily proofs, That not onely by visible Infirmities of the Organs which follow our Disorders, but by an imperceptable and Natural declining of the Spirits; most Men, e're they attain that Term of Life, do oft out-live their own sufficiency.

VII. *Of His Possession.*

THis *Particular* in Relation to our *Minister* presenteth three inherent *Subjects* considerable in Discussion. The *Quality*, *Quantity*, and *Dependence* thereof. But before we treat of the *Branches*, it will be requisite to examine whither the *Principal* be necessary to our *Subject*. Since the Graces of the Mind may really consist without the Benefits of Fortune: Nay, oftentimes by Her Repugnance, standing exacter Tests, become yet more refin'd; and in such Consequence, more useful to our *Ministry*.

To which we may reply, That *Wealth*, in the meanest Portion can no way fall into conjecture, to be held Essentially, or Immediately necessary to the forming of our *Minister*. Yet weighing the collateral Impediments of Poverty; not only to the preceding Fashioning and Introduction of our *Subject*, but to his present Agitations, we may affirm *It* obliquely in some measure

meaſure to be requiſite in *Him*. Not meerly as a ſafeguard from ſuch Neceſſity as threatens His preſent Exiſtence. There being many other more remote Degrees of Indigence, which may prove obſtacles to the ſucceſs of this His *Miniſtry*, which are to be eſteemed ſuch; in Proportion to *His* private Charge and Quality.

Firſt, in Reſpect of *Himſelf*. The burden of His own anxious Thoughts, will render the Faculties of His Mind, not only indiſpoſed, but unprepared to *His Miniſtry*. *His* Thoughts imployed, ſuſpended, or diverted on His proper Exigents, to whoſe forc'd Summons, Nature her ſelf will claim a Priviledge.

Secondly, The inward Senſe of his own abject Fortune, redoubled by Reflection of the Majeſty of His own *Aſſembly* (if it encounter not an admirable Temper) will, Through the Dejection of the Natural Spirits, ſome time at leaſt reſtrain the vigor of his Argument, if not extingniſh It.

In Reſpect of Others, the Inconvenients are, That *His* private Miſery may ſometime in *His* mouth render e'vn Truth it ſelf ſuſpected or neglected. *Wiſdom from a poor mans mouth*, as *Solomon* ſays, *being, or not approv'd, or not followed.*

Moreover, it ſeems not altogether conſonant to Reaſon, that publique Affairs ſhould be committed to *His* charge, who hath not a competent ſhare of Intereſts in the Tranſaction.

To which we may yet farther add the caſual Frailty of our own infirm Natures, which thereby lays us open to the Battery of each Corruption; not onely in the Jealouſie of Others, but likewiſe may as far intrench e'vn on our own proper Apprehenſions. Since the *wiſeſt Man* that ever was, *became Herein but diffident of His own Sufficience, unblemiſht, to ſuſtain the Tryal.*

Concluding thus the Original of our preſent Diſcourſe, in ſome meaſure proper to our *Subject*, we will peruſe the Conſequents hereto belonging, before ſpecified.

From the *Quality* or Nature of His Poſſeſſions may ariſe Two Doubts. Whither we ſhall admit *Them* Moveable, Temporal, or Fundamental, National or Forreign. Both which Propoſitions will fall under the capacity of one Solution, which ſhall be, That the ſafeſt proceeding in our Election, is to aim at the firmeſt Pledges of *His* fidelity, we conſtitute to our Truſt, Not that we ſhall not hereafter be ſo cautious to exact of *Him* ſecurer Proofs of His Integrity. Nor yet at preſent ſo Scrupulous, as not to admit Him to our *Miniſtry* without the exact concurrence of ſuch Evidence, having e're this paſſed the Teſt of more Eſſential Tryals.

To

To this Distinction in Order, succeedeth the *Quantity* of *His* Possessions, one extream hereof we have already handled with the preceding Principal; the other, that of course here falls in Agitation, is the excess of wealth (not such in measure proportioned to the fancy, but condition of the owner.) How deceitful an Impostor *This* is to cheat the sense, the wide worlds general Homage to this Idol may be evidence, *Who*, to use *Mountaigns* Terms, *judge of the Palfrey by his goodly Trappings: And believe my Ladies Chappein's an Essential part of Her admired Personage.*

How corrupt an associate to the Owners Reason, sacred Authority hath to us attested, *Figuring the Incapacity thereof to all that's good, under a humane Impossibility.* Moreover, how nigh and tempting an Access such affluence may lend Ambition, not seldome only to the disturbance of the common Peace, but to the Subversion or Translation of the whole Fabrick of a Government, all Ages will afford us woful Patterns.

Rejecting thus the extreams, as inconvenient in our *Minister*, it follows without farther consequence, we must approve the mean, which from the result of our Argument not yet distinctly figured to the sense: We will propound It a Proportion capable in a sober Temper, to free the minde from the assiduous servility of others, or of His own occasions: which end, if compassed, more by the vigour of His proper Reason, then the Advantage of His present Fortune, will render Him yet more acceptable as visibly more hopeful to our *Ministry*.

The last inherent to this present *subject*, is the *Dependance* of our *Ministers* Possessions; which we shall negatively include in one convertible Proposition, That neither His Estate, if possible, depend by Tenure, Custom, Homage, Copy, or otherwise on any others, then the Princes, or States, to whom he is Subordinate: nor yet that many others in like manner do depend on His.

The former, if admitted, might perhaps form such engagements on our *Minister*, as may enthral the freedom of His Spirit, and thereby sometime cast a private restraint on the Persuit of publick Purposes; or wrest some Publick motion to a Private Interest.

The dangerous consequence of the *Latter*, if admitted, too soon yields fuel to incensed *Ministers*, to become unequal Repairers of their secret Discontents, as hath too oft appeared to the damage of this Nation; and formerly gave occasion to a Cautious Prince, by sundry Acts to take away the Ground thereof from all succeeding Ages.

VIII. *Of his Community.*

THis *Principle* (rightly conſidered) will lead us to more viſible and Eſſential Diſcoveries of our *Miniſter's* inward Temper, not ſo much in the borrowed Image iſſuing from the inſenſible Impreſſions our facile Nature receiveth from the Habits of our frequent Converſation; as in the innate Idea, others may thence collect of the ſecret and natural Propenſion of *His* minde, following therein ſuch Objects as ſeem unto *His* fancy moſt agreeable, which may be lights to guide us in Election. But chiefly (when conſtituted a member to this *Aſſembly*) we ſhall by way of advice interdict Him three Societies as inconſiſtent to the Advantage of *His Miniſtery*. Of *Bibbers*, *Curtiſans*, and Forreign *Miniſters* of State, under which Heads are figured to us the three eminent Strengths in Conteſtation for Preheminence in their Efficacy over the will of Man, *Wine*, *Women*, *Wealth*: Not that perhaps our *Miniſter* may not be of ſo excellent a Temper, as to reſiſt the Contagion of their contingent Imperfections, though the common frailty of our own corrupt Nature may afford us hourly matter enough to entertain the exacteſt Virtue in unceſſant exerciſe, without attempting on ſuch Tryals, may in his failing, hazzard the common ſafety with *His* own. The Danger Hereof will appear more evident and weighty, when to *His* innate Infirmity, we ſhall Ballance the inſinuating force of theſe their Inſtruments with the full extent of their Operations.

The Impoſturies of *Wine* firſt ſteal upon the warieſt Temper, under the Diſguiſe of Natures helpful Miniſtry, admitted thus in one Degree for uſeful; Cuſtom, at length, will in Another form it neceſſary. Mirth exalts the meaſure, and company procureth the exceſs, which not only ſmothers the Natural Light in Preſent, but diſables it in Future, leaving the irregular Demeanour ſo ridiculous, that what ſhould Grace *His* Dignity, detracts from *His* Authority: while the ſhallow Image of *His* thoughts hang on his fleeting Breath, and by the leaſt diſordered motion of the Heart, drops from his ſlippery Lips, perhaps to the betraying of the general welfare.

But peradventure ſome may alledge, that our *Miniſter's* happy Conſtitution may as well gain this Advantage over others Imbecility, as Another over *His*: and that there are certain Climates, to whom this Cuſtom is ſo proper, without the Proof Hereof, a *Miniſter* with them ſucceſsfully can ſeldom agitate.

To which we may anſwer, That it is too uncertain, hazzardous, and indirect a Procedure, to intruſt an equal portion of Affairs of this high Nature, but to the Advantage of the Natu-

ral Temper, to whoſe exact managing, the perfecteſt Lights of Reaſon or of Art, are ſcarcely capable: But were It granted neceſſary, there might be other Agents found hereto more proper, whoſe Ignorance might anſwer for their Secreſie, and free the State from Caſualty of ſuch a Damage, without imbarking of an equal venture.

How irreſiſtably the Charms and ſlights of wanton Womens Subtilties work on our ſelf-betraying Nature, lying in our Boſome, all Ages will afford us evidence, whoſe woful Proofs have not left Man the hope of a defenſive Armoir. To theſe, we finde in *Sampſon*, *Solomon*, and *David*. The ſtrongeſt to his Ruine, betrayed his ſtrength. The wiſeſt to the diſmembring of his State, his Knowledge. And the moſt zealous, to his Reproach, his Piety. It will therefore be no ſcandal to our *Miniſter's* Sufficience afar off to avoid this *Precipice*, become remarkable by the overthrow of ſo many eminent Perſonages; not only in *His* own Reſpect, but in Regard of publick Intereſts (by *him* to be preferr'd before *his* own) which lying in *his* Boſom, may oftentimes be incident to the like Diſaſter.

Whereto may be objected, That there are alſo certain Commonwealths, with which our *Miniſter* may have Commiſſion to communicate, wherein the ſole, perfecteſt, and moſt material Intelligence of the occurrents of that Place, are only to be gained from ſuch Inſtruments, whoſe private Interview may farther be authorized from *Cicero's* ſucceſs hereby in the Diſcovery of *Catalines* Conſpiracy.

To which we make reply, That herein alſo (if aſſented to) the Ballance of our Argument remains but ſtill in equal Counterpoiſe; ſince in one and the ſame ſubject we may to the Facility in Diſcovering, oppoſe the ſubtilty in attaining ſuch ſecrets: ſo that hereby we attempt to gain no more, then we endanger to loſe. In which Reſpect, where Cuſtom hath confirmed ſuch Proceeding uſeful, and not ſcandalous, it will be more applauſive and convenient to have recourſe to our preceding Remedy, and under the Faculty of a more remote ſubſtitute, preſerve the Dignity of our *Miniſter* unblemiſhed, and Publick Intereſts from a Capacity of Prejudice.

Our laſt Reſtraint on *This Aſſociation* is with Forreign *Miniſters*, under which Diſtinction we have reduced the Force of Wealth, in that Money is the chief and uſual Inſtrument ſuch Agents work with, to the ſupplanting of their Neighbours Intereſts, or otherwayes advancing of their own, by ſecret Corruption of their *Miniſters*: Of which Method in Proceeding, the *Venetian* is ſo jealous, That they have inhibited by a penal Law (extending to the Nature of High-Treaſon) *That no Miniſter of State, or Senator, ſhall with Forreign Miniſter either at home or abroad,*

Friend

Friend or Foe, have either private or publick Conference whatsoever, without the special Licence of the Senate. Which hath not (as some may figure) been enacted only, as a terror to suppress private practises; but clear contrary, hath in every Circumstance been prosecuted with such blinde severity, as hath in latter times, injuriously both to Themselves and Others, untimely dissected from their *Civil* Body (*Anthonio Foscarini*) a Member of the greatest Eminence, and perfectest Integrity amongst them, such before reputed, and after to their Grief and shame too late acknowledged. In which proceeding, since we seem to cast a shadow of Reproach on so venerable a *Society*, and so universally approved Laws as hath induc't the ablest Judgements to believe, That no *Civil* Jurisdiction either hath had, or need to have firmer Basis to the Establishment of a lasting Government. It will be necessary to digress somewhat from our present Subject, both to express and prove the Defects in such Ordinance, as also in the Dispensation of the same. Briefly therefore we may Object against one Clause in the Edict, That it is against the Dignity and Purity of a Law to propound any Recompence to the Dilator, as pre-intending to suborn by such Corruption false Witness to the Plea, and to invite the Indigent as well to suggest a Lye, as to disclose a Truth.

To which if inferr'd, the Necessity Hereof to a due Information; we may reply, That if the Vigor of a plausible Affection to a Common Cause, be not in every Peculiar Person sufficiently effectual to the vigilance of their proper safety inherent to the publick: yet, the never sleeping Spies of Envy and Malice (to whose Persecution the exactest *Ministers* are most incident) will need no stipend to provoke their Fury.

Against the incircumspection of the *Ministers* to this Decree, we may in this particular infer, That no Judge whatever, by the Nature of his Office, is tyed so strictly to depend on the Evidence of a Witness, as to neglect the circumstance of the Matter, which divers times affords the exactest Lights to Truths Discovery, both without and beyond a farther Testimony; as appears in *Solomon* and *Daniels* Sentences: which, duly to consider, had not those *Ministers* admitted, the false Deposition of a Band of Braves, would not have had the weight to over ballance the just Renown of so vertuous, long approved, and faithful a *Minister*: where the defensive evidence was to be wav'd as irreceivable. But to come nigher to our present Subject, The true ground of this Law wants no other Authority to lend It consequence, then the numerous Examples of *Ministers*, thus corrupted almost in every Age.

Not that we shall here declare a general suspicion of our *Minister*, but to prevent the irresistable motions of our common frailty

Frailty from a dangerous iſſue. How forcible and prompt the means in Practice is to our Corruption; ſo obvious is to every Senſe, we only will inſert this antick Obſervation; That the *Common union of the ſtrongeſt City is not of Force ſufficient to reſiſt the entry of an Aſſe laden with Gold.*

To conclude, where no ſuch Inſtitution is of force, but general freedom licenſed, It will become the Prudence of our *Miniſter*, if wholly not to refrain ſuch Converſation, at leaſt to uſe it with ſo nice a Prudence as may not yield a ſeeming ground to others jealouſie of *His* ſincere Intentions.

IX. *Of his Demeanour.*

IN the Reflection of this *Subject* we ſhall make nigher, and more viſible Approaches on the Diſcovery of our *Miniſters* ſecret Inclinations, which yet may lend us a more hopeful Introduction to His Inſtitution, as they are more exactly appropriated to the perfect managing of His *Miniſtry*; in Relation to which we ſhall here only agitate on this *Particular*.

His exteriour *Demeanor* may properly *herein* be limited under the extent of three *Objects*. His own *Aſſembly*, *Forreign Societies*, and *National Sollicitors*: But e're we handle *It* as diſtinctly proper to theſe *Particulars*, we will conſider It in *General*. How inſenſibly and powerfully the unaffected Graces of the exterior *Demeanor* win upon others Inclinations, ev'n in the firſt Aborde, may be diſtinguiſht in the effects by the moſt Savage and unciviliz'd Temper, though undiſcovered in the cauſe thereof.

'Tis not the affected Geſture of the Mimicks of our Age, That our Intention is directed to; but an inexpreſſable Agreement in the Motion of the Parts, whence iſſueth, as it were a ſilent Harmony. 'Twas the admired Efficacy of this, that charm'd the fury of the rebellious Multitude, their Arms (the Fuel to their Rage) yet in their hands, when *Alexander* and *Caſar expos'd themſelves into the throng, unguarded and alone, to the Attachment of the Incendiaries,* who fearing none, were to be fear'd.

'Twas the ſecret working Hereof, calm'd the unappeaſable Ire of *Edward* the *Black Prince*, againſt the *Lymoſeins*, *While entring their City, the Bloody and irreſiſtable Inſtruments of his Vengeance yet in the height of Execution; by the Reflexion of the valour of three Gentlemen thereof, had put this his victorious Army to a ſtand.* 'Twas *Scipio*'s gallant *Demeanour* at the Bar, that ſilenc't his Accuſers, and aſtoniſhed his Judge. This is the very Life of *Rhethorick*, ſo oft hath wrought on the Affections of the Multitude beyond Intelligence.

But

But to return to the Propriety and uſe Hereof in the *Particulars*. And firſt in Reference to the Convention of His own *Society*, whoſe diſtinct Conſultations having but one Object, The *Publique Good*, nor but one Courſe to attain It, *mutual Agreement*. The neceſſity of the work will not only require a Conformity in their Faculties that mannage It, But their Wills, which at the Entry of our *Council* are therefore enjoyned to put off all Appearance of Emulation or Inemnitye; though their Natural Infirmity cannot diſpence with the not re-aſſuming Them in the Iſſue. In imitation of ***

But yet not ſo nice of Apprehenſion to ſhock anothers opinion in *His* Oppoſition, as to forfeit the unequal Reſentment of *His* own Reaſon. In the Proſecution whereof *He* ſhould put on as much undaunted Reſolution, as may neither ſmother nor misbecome His Sence in Paſſion, whereof to avoid the very ſhadow, He ſhould neither Anticipate, nor yet Neglect *His* Order in Delivery.

In His Agitations with Forreign *Miniſters*, we ſhall allow Him to aſſume more *Majeſty*, in Reſpect of the Dignity of the Nation he repreſents. And more Art, in Regard of the divided Intereſts, each Part obliquely may perſue. But ſo that the *Former* be ſweetned with a Civil Modeſty. And the Later ſhadowed with a ſeeming Indifferency, reconcileing both their Repugnances to ſuch an union, as the ſplendor of *That* may not reſtrain the ſuppleneſs of This. Nor the Dexterity of This Eclipſe the Luſtre of *That*.

His Comportment toward Solicitors of *his* proper Nation will require no leſs Caution. There being Two dangerous Extreams Herein to be avoided. The Diſaffection of the People, and the Jealouſie of His Peers.

To ſhun the *Former*, He muſt, in the Reception of *His* Solicitors, neither take on a ſow'r Auſterity to counterfeit affected Majeſty; Nor yet a ſullen neglect to borrow ſeeming Gravity. He muſt not aſſume that unbecoming Masque of vanity, to pretend *Himſelf* more conſiderable than the Reſt of His *Aſſociates*, by affirming *Himſelf* over-burd'ned with an unequal ſhare of Affairs, to ſhake off their Addreſſes, nor yet acknowledge ſuch Preheminence in Power as to invite Them.

He muſt ſtill in *Himſelf* be wary to preſerve in *Their* Eſteem the Dignity of that *Society* to which *he* ſhall officiate. The People judging onely of the Body by the Parts thereof. His Acceſs therefore Muſt be Facile, His Aboard Gracious, His Entertain Agreeable, and Cloſure Satisfactory. If not in His Endavours, yet in His Advice. But not to ſet ſo high a Rate on either, as if he drove a Trade in Civil Tyes; and made ſo reverent a Convention, but a pub-

lique Marte, for Commerce onely, but of private Intereſts; nor yet to value either at ſo mean a Pitch, as to ſeek out occaſion to diſpenſe the ſame. *His* Diſpatches muſt not be tedious nor precipitater That (inſtead of Relief) were to adde one Burden to another. This (inſtead of advancing) were to betray the ſucceſs of a Cauſe in Manner of the Manageing.

In the Contexture of all which, He muſt uſe ſuch Addreſs, as he approach not to the next Extream; becoming Popular. Our *Miniſter* may be too forward in the perſuit of fair Tranſactions of this Nature; There being as much danger in ſerving of a People as a Prince too well, The next ſtep being followed with the Neceſſity of his Ruine; the ſecret Envy of *His Aſſociates* ſuggeſting ſtraight a Jealouſie of the Common welfare, *This* in the *Athenian* State lent Ground to the Eſtabliſhment of a Law, entituled *Oſtraciſme*, which was for Term of years a publique Exile of ſuch *Miniſters*, who in the happy Iſſue of eminent Enterprizes, became too Glorious in the Peoples ſight, o're-ſhadowing thereby the failing Luſtre of the whole Society. Such and the like Rewards have often crown'd the Triumph of a Glorious Servitude, as may appear in the unequal ſufferings of *Scipio*, *Pericles*, *Alcibiades*, and many other Worthies.

And where ſuch Laws were not of force, many ſuch *Heroes* have become the tragique *Subject* to Envies ſecret Practices. Though ſome, perhaps may here be inſtanced, have by ſuch Artifice ſupplanted Princes, and ſubverted States, as *Bullingbrooke*, and others. And ſome the Means hath failed in the Attempt thereof, as the *Guiſes*.

X. *Of His Speech.*

THis *Subject* may lead a wary Obſervation (endued with Capacity to judge) not only to an Inſpection of the exact Image of the Mind, but even to the ſecret ſources of Her motions (diſtinguiſhable not often to the Owner) more perfectly, then the moſt nice *Idea* extracted from the Actions; the hidden ſprings whereof Cuſtom and private Ends do often ſmother in a confuſed Heap of Circumſtance, whoſe conſequence reſts ſtill concealed in the Intention. This being the more immediate Inſtrument the Soul imployeth on exterior Objects. Which in Reſpect of our *Miniſters* Society, being contracted under Three Heads of Communication, as is expreſt in the preceding Subject; we will direct our purpoſe only to appropriate this *Principle* unto our former Model.

Firſt, in Relation to his own *Society*, the Object of His diſcourſe being only Single, the Method thereof muſt be only Simple

ple, or without Art. Truth wants no other Ornaments to affect her Audience, then *Her* proper Beauty. What moves the Senses but obscures the Reason. The Flowers of Rhetorick are commonly but the suspected Fardes unto siniſter purposes, whose Impostures are inconsistent with the Nature of our *Ministry*, which cannot admit him for a perfect Workman, as some have said of Orators. *That makes Great Things small, and small Things Great, no more then that Artisan his Crafts-Master should make a Shooe too Little or too Big for the Foot; but he that makes it Fit.* To which perfect structure of Discourse we will lay down a Tripple Baiz to form it on. *Clear*, *Vigorous*, and *Pertinent*.

Clear, or Intelligible, in regard Ambiguity may be Mother of Mistake, Mistake the Nurse of Error, which may encounter such a Consequence, may make the Default irrepairable.

Vigorous, in that *His* Arguments thereby, in present, may meet less Opposition; in Future, win more Credit. And in the sequel of either, procure a speedier Expedition, which must not yet be formed under the Semblance of an insulting Imposition; that were to blemish Truth's attractive Grace with *Civil* Tyranny, not leaving others Sence the Liberty to agitate, and so retard Her sought Reception, if not repulse Her at the first Aboard in Dislike of Her Appearance; All men affecting such a Freedom in their Judgements, as may in their Assent to Truth's Decree, entitle Them to equal share of Right in Her Discovery.

Pertinent, to avoid a prolixe Circumstance, which will not only waste Time in Delivery, and in the Order of Reply expedient to Particulars; but may produce unuseful Matter to new Arguments, extending so the *Subject* beyond a due Proportion in the Managing, which being a stop to new Occurrences, continually are flowing in the Concourse of Assairs (whose weight implyes an Exigence in Expedition) will press for timely Issue, or swell to such a burd'nous Multititude, Necessity will inforce some part Thereof to be neglected or omitted.

In *His* Transactions with *Ministers* of Forreign States, *His* Discourse may assume like Form, as *His* Demeanor to Them before specified, more Majesty and State to the united *Body*, in Honour of His proper Nation; more Art and Courtship to the particular Members, in favour of *His* secret purposes; Yet to the former, not with so rude an Arrogance, as is expresst in *C. Popilius Embassie, who on his first publick Audience, making a Circle round about Him with his staffe, required of the doubtful Assembly (demanding time but to deliberate on their Answer) their plain and present Resolution e're he should pass the*

Limits

Limits of his form'd Circumference. Nor to the latter, with so ſuffering a Civility, as to oblige another Nation at expence of the Intereſts of his own.

To the people of his own Juriſdiction the Emphaſis of his Diſcourſe may vary Forms, as their Addreſſes to him, or his to them, directly or obliquely, may concern the Nature of *his Miniſtry.*

Their Addreſſes to them in Particulars on Private Agitations may be received and returned in a plain method of Delivery, moſt proper to the Nature of the Subject, and the Capacity of the Manager thereof. If their Addreſſes to *him* be in Multitudes, and for a general Cauſe, *his* ſtyle muſt have more winning ornaments to become plauſible.

If *his* Addreſs be to particulars obliquely tending to a Publick Cauſe, *his Language* may aſſume more Majeſty to lend it more Authority.

If *his* Addreſs be to a multitude directed only for the Publick Benefit, *his* Tongue may uſe the choiceſt Grace of Rhetorick to ſtir the Paſſions of the Populace: yet muſt *he* not exceed the Limits of his Purpoſe in his Promiſes, leſt the Neceſſity of their Omiſſion ſhould procure Hatred or Diſturbance to the State, Ruine, or Danger to *himſelf*, having thus rais'd a Spirit *he* cannot lay again. It will be ſafer perhaps and more facile to win the Inclination of the Multitude, by tickling of them with their own Applauſe; yet here in alſo muſt be Caution, ſince Their incited Paſſion, known but in Extreams, ſhould or exalt *him* or themſelves ſo high, to hazard their own Safety, or the Publick Peace, drunk with the fury of their wilde Diſtemper.

But happy are thoſe Nations, That utterly hereof aboliſhed the uſe, whoſe ſubtle Contagion too often but foments the ſecret Fuel of Incendiaries to the Emotion of ſuch Dangers may ſubvert a State.

XI. *Of His Fame.*

THe Harmony that iſſues mutually from the Concurrence of All the foreſaid Attributes in their Impreſſion on the Fancy of the Vulgar is *His Reputation*, to which we have given Order in the ſequel of *His exterior* Properties, without Reflection on the *Interior*, in regard theſe are the only Springs which lend Emotion to the Reſentments of the multitude, who have nor will, nor yet capacity to ſearch into the *Latter*, taking up their Opinions only on the publick Faith, and rather hazard their credit (though to the General Damage) then be at expence of a nigher Trial.

How

How this method of proceeding ſhould form a firm Foundation to the Eſtabliſhment of Truth, we cannot apprehend, though confirm'd and authoriz'd by that powerful warrant, *Vox Populi, vox Dei, The voice of the People is the voice of God*; Which rather is ſo to be interpreted, in Reſpect of the irreſiſtable force Thereof in executing, then in regard of a ſupream faculty in Determining. For ſince It is unqueſtionably manifeſt, that not one of a thouſand (taken ſeverally) is endued with Capacity to diſtinguiſh of the *Truth*. Why ſhould we then eſteem them (if united) competent Judges to *her* Evidence, making the reſult of their voice in general to be of weight, which in Particulars can no way be conſiderable.

To which perhaps may be alledged, That the multitude receive no notions for poſitive Truths, or warrant of Their Own Sufficiency, but from the Tradition of the choiceſt Judgements, approved in the Agreement of ſucceeding Ages. In Objection to the Inference, we may reply, That when we ſhall exactly weigh the common Hereſies, that hereby have been introduced in Repugnance to *Divine* Principles. The abſurdities to *Civil*, and the Fallacies to *Natural*: We ſhall finde Reaſon to believe, that even in thoſe Ages, and over thoſe Judgements the Paſſions of the Multitude have had too forcible an Influence in overſwaying of Their Sentences, to admit Them for Authentick Generally. Moreover we may obſerve, in moſt General Councils, that men of greateſt Wiſdom and Integrity, have ſuffered the moſt obſtinate Oppoſitions in their Arguments, either through Envy, Ignorance, or Inentility, or elſe in favour of ſome ſecret Practices: which though examined with more freedom and Impartiality in remoter times, yet neither then want corrupt or perverſe Champions to ſhelter Their Defects: ſo that the Multitude, in the doubtful ſtrife (ſuſpended from definitive Cenſure) incline to that, holds moſt Advantage with their proper Intereſts, aſſuming ſtill the Authority to judge. From whence we may collect, That bluſtering Fame is but a doubtful Light to yield ſafe conduct to our Purpoſes, not only in reſpect of their premiſed Inſufficiency to judge, who forms her Nature; but in regard the vitious multitude can not, without impeachment to themſelves, approve of ſuch are moſt to them unlike: ſo that a wiſe and upright man may have juſt Cauſe ev'n to ſuſpect himſelf in their applauſive Teſtimony: to which may alſo added be, the common Homage, moſt tender to the ſenſe and proper Intereſts.

The perfect'ſt teſt to the allowance of our *Miniſter*, will therefore be the ſecret Approbation of the vertuous, wiſe, and unintereſſed Publiſher: And becauſe all theſe three Attributes are to meet in one *Subject*, all theſe three Faculties muſt concur

in the distinguisher: but lest we should anticipate our Order, intrenching here too far upon the Righes more proper to another Theam and Place, we will desist to pursue farther this our Argument, and here but only weigh what Influence a fair Renown may yet contribute to the advantage of *His Ministry* following the Distinctions of our preceding Patterns.

First in Relation to *His* own *Society*, It will lend weight to His Advice, if not Authority; Subject for exact Discussions, if not ground for doubtless Receptions. It will make way for due Assurance in the Delivery of *his* Purposes, for vigour in their Prosecutions. 'Twill farther keep *his* Faculties assiduous, vigilant, and cautious in their Exercise, in jealousie of their Honour.

In Respect of Forraign States, the Glory of *His Fame* (lending more Lustre to His *Society*) will to Confederates endear an union, Restrain publick Breaches, Oppose private Practices to Enemies, make our Designs redoubtable, advancing so their Issue e're they have a Being and probably unnerve their Counter attempts in Diffidence: The very Fame of *Alexander*, when living, kept not only *Rome*, but the wide distant world in Awe. Who, without Fortunes farther tryal, resolv'd unanimously all to become His Vassals, and hold the Civil Jurisdiction of their Governments in *Fealty* of Him, To which Intent Ambassadors were from all Parts designed to *Babylon*.

In Reference to *His* proper Nation, a high *Repute* will yield a plausible satisfaction to the People in the Establishment of severe Laws, a chearful suffering in the necessity of Burd'nous Impositions, flourishing Hopes of the success of their intended Enterprises, reviving Courage in the Dejection of publick Disasters. Check the springing Fury of publick Emotions, suppress the progress of private Practices, and preserve the whole *Society* in Honour and Credit with the People, who will thereby excuse their publick Failings, lending a fair Construction to their Endeavours in the miscarriage of their undertakings.

XII. *Of his Interior Endowments under four Principles.*

I. *Of His Prudence.*

HAving figured the exterior Endowments with their Coherents to *His* Person, so far as may have Reference to *His Ministry*, we will pursue our Order, and make our Entry on the Distinction, and uses of the Interior, under the extent of four Principles, *Prudence*, *Justice*, *Fortitude*, and *Temperance*.

As

As all other Virtues are but ſubordinate Miniſters to theſe four, ſo the three latter of theſe ſeem to have an equal Dependence on the firſt; *Prudence* being the general Rule and Compaſs by which they all do ſteer their Courſes: and no longer retain their own proper Nature, then contain'd within the Bounds of *Her* Preſcription. *Juſtice*, if ſevere, becometh Injury; *Fortitude*, if unreſtrain'd, Temerity; *Temperance*, if not qualified, Exceſs: So that their true Exiſtence is very properly ſaid to be ſeated in the mean, which to diſtinguiſh, Prudence ſuſpends the Ballance to the Counterpoiſe.

Antiquity diſtinguiſhed this Attribute, under the Figure of a youthful Virgin, viewing intentively her own Form in a Glaſs, implying the exerciſe of Wiſdom to conſiſt only in the Inſpection of our ſelves: According to the Inſcription on *Apollo*'s Temple, *Noſce Teipſum*; In which Ordinance *Plato* affirms *Prudence* only Conſtituted: and *Ariſtotle* farther verifies the ſame in *Xenophon*.

Not to reflect upon *her* Nature here as a Cæleſtial Attribute, but to conſider the Force of *her* Faculties in ſo frail a Continent as Man. *She ſeeth the evil afar off, and avoideth it.* She lendeth a Stratagem to the ſucceſs of Arms, and Council to the Eſtabliſhment of Peace. She lades the Induſtrious with Riches, and the Humble with Honour. She diſcovereth the ſecrets of Nature, and directeth them to their proper ends. She anticipateth the Deſigns of the Fraudulent, and involveth them in their own Snares. She diſtinguiſheth the ſeaſon proper to every action, lending them ſo, not only Grace, but Succeſs: From the Aptitude of time, haſtening the Maturity of Her Purpoſes: She ſearcheth into the end of Her own Being, and not to fruſtrate the intention of Her Maker, applyes her ſelf with Diligence to the uſe. She communicateth Her Treaſure without Scruple, and enlargeth Her Store by a liberal Diſpenſation. Safety is in Her left Hand, and length of Dayes are in her Right. She raviſheth Others with Delight, and ſatiates her Owner with Joy. But to inſiſt longer on the Deſcription of Her Character, were to detract from the Glory of Her Eſſence, preſcribing Limits to Infinity. We will yet view Her Ornaments with more proportion to our Faculties. Conſidering Her Luſtre in Reflection on our *Subject*: And though Her uſe may ſeem imply'd in Her Diſtinction, yet we will farther in ſome particulars appropriate Her Graces, as peculiar Ornaments to our *Miniſtry*.

Prevoyance or Foreſight, is one of the moſt excellent Faculties our *Miniſter* can be endu'd with, to the due Execution of *His Miniſtry*. We ſpeak not here of it, as a ſupernatural Gift of Inſpiration; Nor as an Artificial Light of Divination. (The blind Zeal of the Pretenders to *That* hath made the

the One ſcandalous. And the ignorant Preſumption of the followers of *This*, hath made the Other Ridiculous) But a Rational perſpection of enſueing Conſequence gathered from the Collection of collering Occurrents, proportion'd to the Capacity of the Matter and the Managers. Thus did *David* by *Hushai* ſubvert the Council of *Achitophel*, in Reference to the heady Folly of His ſon *Abſolon*, coincident to *His* vanity and Youth. Thus *Alexander grounded His ſtratagem on the ſuperſtition of the Indians, who having ſtopt His Paſſage by Prepoſſeſſion of an inacceſſable Mountain, hired ſome fifty Mountainers to aſcend the ſame in difficult and inacceſſable Places on the back of His Enemies*, Where being *arriv'd to make great fires, which ſignal diſcover'd to Alexanders in the plains, He put his Army in Battalia, as if he had intended to aſſail His Foes. But as his Army march'd, a Herauld ſent before to ſummon them to yield, and not to be too confident on the Advantage of the Place, which would betray them to their Ruine; herewith ſhewing them many diſperſed Fires, were to their Terrour made on every ſide. The Indians believing this unexpected Force was ſent from Heaven in favour of the Aſſailants Purpoſes, ſtruck with much Terrour, ſurrendred both their Perſons and the Place.* So *Scipio* reflecting on the immeaſurable Avarice and Lachety of the *Carthaginians*, withdrew *Hanibal*'s irreſiſtable Force from *Italy*, by transferring the Warr into *Affrick*.

To which may poſſibly be objected ſome examples, that having had the like Grounds, have not had the like happy Iſſues.

In Anſwer whereto we may inferr, that it can be no Reproach to our *Miniſter*, to fail under the conduct of this Natural Light; ſince *He* is only Maſter of His Councils, not of their Events.

Another Inherent of our *Subject* expedient to our *Miniſter* is *Inſight* or a ſharp *Perſpecuity* in Judging, without Relation to the Future, or the Precedent, but onely from the preſent Sence and Circumſtance, ſearching into the ſecret Nature of Occurrences. Thus was enlightned the famous Judgements of *Solomon* and *Daniel*. Thus was diſcovered the Impoſtury of the pretended born Blinde, miraculouſly healed at *Dijon* by *Lewis* **** in the tryal of his judging of Colours; which though His reſtored Faculty might diſcern, time muſt have endu'd him with Capacity to diſtinguiſh.

Of this Endowment our *Miniſter* will have daily uſe, not only to the Diſcovery of ſiniſter purpoſes in the Intercourſe of Affairs with Forreign Miniſters (whoſe uſual Commerce is but an honourable ſort of Impoſture, but to the enlightning of private practices ev'n in his own *Society*

In-

Invention is another of our *Subjects* essential Attributes, expedient to our *Minister*, which seems to spring from the Concurrence of *Her* two former Ornaments Prevoyance, and Perspecuity. This Faculty hath two Objects of an Engineer, which meet in one Center; Proper safety. *Offensive*, in open or secret assailing of an Enemy. *Defensive*, in open or secret guarding of *Himself*: Neither of which can work securely without the other, who so transports His Force to the Prejudice of his Foe, as to omit his proper safeguard, lies naked to his Enemies Offence: who so intentive is on his security, as to neglect Attempts, arms but his Foe more strongly 'gainst Himself. Plot and Counter-Plot must wait upon an Enterprise to crown the undertaking with success, though sometime they may seem divided: as *Eumenes*, *Who seeing many Billets were in his Camp dispersed by his Foe, to invite with great Rewards some greedy Temper to contrive his Death, assembled all his Troops by publick Proclamation; where highly exalting their approv'd Fidelity to Him, with tender of a seeming gratitude: He publickly affirm'd, those Billets so disperc'd, were but the secret Machines of his Love, by him contriv'd to gather nigher Proofs of their Affection.*

To make all which Concurrences successful in their use, we must invest them with another Ornament, A perfect faculty in the Election of proper Instruments and Seasons.

In due observance of the *Former*, many Princes endued but with small sufficiency, have often happy made their undertakings: And many that have had extraordinary Endowments, failing herein, subverted often have the Course of well digested Enterprises.

To grasp with Time for fair occasions, must be the Practice of an Industrious and Vigilant Temper; such as *Cæsar* was, who put forth to Sea for *Affrick* in a Storm, where he alone was to become expos'd amongst his Enemies, having as then no Party formed there. In all his Enterprises his Diligence still anticipated his Enemies Apprehension: Many eminent Personages in This defective have thereby frustrated their painful persevering, and otherwayes successful Purposes, as *Hannibal*, whose frequent failings herein, had form'd a general Observation peculiar to Himself, *That he well knew how to o'recome, but not how to make use of Victory.*

XIII. *Of Justice.*

THis Attribute is the Ground of all Civil Commerce, being the Rule whereby all Laws what e're pretend to be established. The old Law represents her Character under a se-

vere Injunction. *An Eye for an Eye, a Tooth for a Tooth.* The Goſpel under a gracious Precept, which entitles every man to a Faculty of being his own competent Judge. *Do unto others, as you would others ſhould doe unto you.* Antiquity figur'd Her Model under the form of a young Virgin, holding a Sword erected in one Hand, and a Ballance ſuſpended in the Other. Her Eyes hooded with a Scarf: In which Poſture amply enfolding the Myſtery of her proper Nature. The perſon under which ſhe is ſhadowed, intimating, Her ever flouriſhing and attractive Grace, implyed in the fertility and beauty proper to that Sex. Under the three other Diſtinctions is inferr'd the mutual Relation and Agreement of all Virtues neceſſary to the exact conſtituting One Another. *Prudence* ſeems intentive on the ſuſpenſion of the Ballance to diſtinguiſh of which ſide the weight of Right inclines. *Fortitude* hath arm'd Her with a Sword, and Courage to the Execution of a double *Miniſtry*: Puniſhment and Protection. Many, who only have conſidered this Inveſture of Juſtice, have erroneouſly figured to themſelves, that Tyranny and Violence have laid the firſt Eſtabliſhment to Government. This may probably be true, in reſpect of the licentious Multitude, who ſtill diſlike to have the unruly Motions of their wills reſtrain'd. But when we ſhall weigh the Faculties neceſſary to reduce their innate ſtubbornneſs to a decent Preſcription, we cannot but aſcribe to Rule, more noble Principles. The conduct of the Prudent united to the Aid and Aſſent of the vertuous.

Temperance, leſt the impartial Sence ſhould over-ſway the Judgement, intercepts the courſe thereof from all exteriour Objects with a vail.

But e're we ſhall begin to appropriate theſe faculties to the uſage of our *Miniſtry*: It will be neceſſary to remove one Interjection, will elſe make void the preſent Ground of this our Argument. Though time, general Practice, and the univerſal Profeſſion of States have formed (as an authentick Axiome) the violation of *Her* Order in Competition with the Conſequence of their Affairs (as *Mountaign* ſayes) *After the model of Phyſick, preferring the uſeful before the Honeſt.* *Plato* ſeems to imply no leſs implicitly, *deſiring only with Fortitude and Temperance, the Advantage of the Form in the Magiſtrates of His Commonwealth.*

Yet we may, without the Cenſure of Vanity or Preſumption, attempt to make Diſcovery on the Defects of the Foundation, under Authority of the *Wiſeſt*, *Who, this affirms to be the ſureſt Baſis to a Government.*

Juſtice, in relation to humane Society, having three differing Objects, may have three ſeveral Diſtinctions, *National*, *Civil*, and *Natural.*

1. *Nati-*

1. *National Juſtice* regardeth the Cuſtoms and Rites allowed or contracted between Nation and Nation.

2. *Civil Juſtice*, the Cuſtoms or Rites proper to a peculiar Government.

3. *Natural Juſtice*, the innate Cuſtoms and Rights between Man and Man.

How ſacred and inviolable the *National* are to be obſerv'd, may here be inſtanced in the *Iſraelites* proceeding with the *Gibeonites* (deſigned by Divine Decree to Ruine) and their League with *Them*, but Surrepticiouſly acquir'd. How ſeverely and viſibly the Breaches Hereof have been miraculouſly puniſhed, is evidently diſcovered in the great Battle at *Varna*, between *Amurath* the ſecond, and *Valdiſlaus* King of *Hungary*.

In Oppoſition to this Example, may perhaps be inſtanced the proſperous Iſſues of the two *Punick* Wars to the Advantage of the *Romans*, by them injuriouſly commenced.

In anſwer whereto (omitting to inſert how ſuch ſucceſs did but contribute to their approaching Ruine, extending the Limits of their Government beyond a due proportion, enforcing them thereby to ſinck under the Burden of their proper Greatneſs.) We may alledge, that the *Almighty*, who from Mans proper Evils formeth his peculiar Good, may (as we ſee in the Myſtery of Our Redemption) ſuffer Malice a while to Triumph over Innocence, for ſome Benefit or Puniſhment to a Nation, ſecretly enfolded in the Conſequence of Divine, Civil, or Natural Cauſes, ſcrutable only to his all-ſeeing Wiſdome; who directed it. But withal, the Inſtruments of ſuch glorious Miſchiefs (though ſhadowed with the faireſt Luſtres) ſeldom ev'n Here eſcape a juſt reward. Witneſs the miſerable and ignominious Extirpation of the *Jews*: With the woful and ſudden extinction of *Caſars* Conſpirators, and their Families. The Cruelty of the *Firſt* ſhelter'd by the pretended Defence of their Laws. And treachery of the *Other*, ſhadowed with the intentional Recovery of their Liberty. *Civil Rights*, Though the *Romans* (induced by the foreſaid *Principle*) have, ev'n for Baſe Ends, ſubverted; as appears *In the Re-infranchiſement of divers Cities for great ſummes of Money from the hands of* Sylla, *by Ordinance and permiſſion of the Senate: which after falling in Queſtion, the Senate adjudged taxable as before; and the Money ſo imployed for the Recovery of their Freedom, to be accounted loſt to them*: Yet ſhould they be inviolably preſerved by their *Miniſters*. Firſt, in regard that the Majeſty and Purity of the Laws are thereby better maintained. To which purpoſe was grounded *The ſtability of the Decrees of the Meedes and Perſians*: Though, as irrevocable, not without danger of Damage in the Conſequence.

quence. That Council or Preſcription being evil in it ſelf, which can no way be changed.

Secondly, In regard of their particular Intereſts, that mannage it, inherent to the Publick: Who ſhould in Reaſon have a jealous Circumſpection not to give way to the Infringment of a Law in being, though for the publick Benefit, ſince all mens Lives and Properties therein involv'd, from ſuch a Precedent, *They* in the Future may receive like dammage.

The courſe of *Private* Rights hath found more Favour with the *Romans*, though to the publick Prejudice, yielding a ſlave Permiſſion to conceal his Maſter, though under the Conviction of High-Treaſon, without Impeachment. *Epiminondas* (though poſſeſſed with the higheſt and moſt noble Paſſion for the publick Good) eſteemed him a wicked Man (though never ſo good a Subject) that ſpared not in Battle 'mongſt His Enemies, His Friend and Hoſt. *Manente in Memoria etiam in Diſſiduo publicorum Fœdorum privati Juris. Ev'n in the ſtrife for Publick Rights, retaining ſtill the memory of private Tyes.*

At nulla Potentia Vires.
Præſtandi, ne quid peccet amicus habet.

Much more forcible and diſpenſable from the Proſecution of Publick Advantages, are *Natural Rights*. *Non enim Patria præſtat omnibus Officiis, & ipſi conducit pios habere cives in Parentes. Our Country is not advantaged by every Office, It being profitable thereto to have Citizens pious to their Parents. We muſt rather approve of* * *that Fathers Example: Who, in Favour of his treſpaſſing Son, parted with an Eye to the Satisfaction of that Law, he had made againſt Adultery.* Then of * *His who cauſed his Son to be put to Death for Infringing His command in his Abſence, though thereby inveſted with the ſpoils of His Enemies.* As for *Jephtha's Sacrifice to his raſh Vow*, we may rather look on it, as a juſt reward to his Impiety, then a warrantable Tryal of his Zeal.

* Zalucus Locenſis.

* Poſthumus Dictator
* Manlius Torquatus.

This Rule of *Right* may ſeem yet farther to extend it ſelf, ev'n on the Confines of Hoſtility (where the very Image of *Juſtice* ſeems effaced in every Delineament) ſummoning Mans captiv'd Reaſon to the Appeal of common Decencies in Humanity. On this Intent was grounded a cuſtom among the *Lacedemonians* to ſacrifice to the *Muſes*, on ſetting forth to War, the Martial Fury might, by their aſcribed Mirth and Sweetneſs be temper'd and allay'd.

But to return to application of *Her* former Diſtinctions to the

the uſage of our *Miniſter*, forming his will to the exact Preſcription of theſe *Her* differing Objects. Though the Nature of *His Miniſtry* may ſeem not fully to extend unto the execution *Thereof*, as proper only to His Subſtitutes. Yet ſince ſuch act but under *His* Commiſſion, we only *Him* conſider, as the firſt Mover of ſuch Inſtruments.

Under the ſhadow of the three former Diſtinctions were figured three Faculties neceſſary to the Exerciſe of *Juſtice* in her ſeveral Objects. A clear Intelligence of the Subject agitated. Power and Courage to Puniſh or Protect. An unintreſſed and impartial Inclination to educe either into perfect Action.

1. To the Acquiſition of the *Firſt* Faculty, it will be neceſſary not only to make an exact ſearch into the Litteral and Viſible ſence and coherence of a Subject in Diſcuſſion, but therewithal to ſound the ſecret ground or purpoſe of ſuch a League, Covenant, Contract, Law, Decree, or Act whatever from the Collation of Times, Circumſtance, and Perſons, in which, for what, and by whom they were paſſed, enacted, or Confirmed. It being inconſiſtent with the Dignity of a Legiſlator, to catch at nice Terms, or Diſtinctions to ſhadow an evaſion from the true Intent. Or to leave ſuch Incongruities or Obſcurities in thoſe Decrees, Acts, or Commiſſions, formed by his Council, as may lend appearance unto ſiniſter Practices in Ambiguity, which may inſtead of Aids to the oppreſſed, become ſnares to the Innocent.

2. The *ſecond* Faculty, conſiſting of differing parts, muſt be aſſum'd from diſtinct Subjects. Power from the Authority under which *He* doth officiate. Courage from *himſelf*, to put that Power indifferently in Act; Both which we will conſider as immediately contingent to His *Miniſtry*, properly and peculiarly ſeated in Advice. In Delivery whereof, *He* may in Right, challenge an unqueſtionable Priviledge of Liberty, being authorized by the Election of a Prince or People, and the Reception of *His* own *Society*; not erring from the Propriety of Time, Circumſtance, and Order. A Conſultation elſe ſeems indirectly managed, concluding, or Impulſively, or Omiſſively: And our *Miniſter* there poſited but a Cypher to lend more value to the Ordinance. It will appear a groſs piece of Mockery, to accept of any One to Council, but onely to affirm what others ſhall propound: Nor can the Advantage of Number claim a Right of Oppoſition, becauſe it may a Right of Inſtitution. The Integrity of that Vote muſt paſs but for ſuſpected, endeauours to avoid the exacteſt Trial. And Truth may ſometime ſo happily expoſe her ſelf unto One Mans Conception, as *his* evidence in Her Diſtinction may overſway the Cenſure of a Multitude. *His* Power to agitate thus unpreſcrib'd,

will lend Him yet but ſmall Advantage to advance the publick Intereſt, unleſs *he* can attain like freedom from *himſelf*. If either the Gravity, Preheminence, or Reputation of others ſufficiency united or divided, fetter with Awe the Faculties of *his* minde in a ſervile Subjection, Dependence, or Relation. He not only thereby will betray His Truſt, but ev'n degrade *himſelf* of This *his* Dignity.

3. The latter Faculty is the ſuſpenſion of the Senſe from all exterior Objects. From this Obſcurity is *Juſtice* brought to Light: It will little avail the Diſpenſation of Rights, to be indued with a Judgement to Diſcern, and Power to determine, if the corrupted will diſguize the Impreſſion. How far the Publick welfare ſhould weigh down all private Intereſt, is figur'd to us in the Integrity of *Regulus*, *Who, being a Priſ'ner to the* , *had freedom on his word to repair to his Countrey, provided he would move the Senate in their Behalf to an Accord, and failing thereof to return to them.* Regulus, *on the firſt overture of the Propoſition to the Senate, finding them in Reſpect of his Safety to incline to an Agreement with their Enemies, laid open all the Damages that would thereby enſue unto the State, exaſperating them with earneſt Paſſion to reſtore the glory of their Arms in Execution of their Enemies, which being aſſented to, They nevertheleſs oppoſed his Return, leſt the wilde fury of the barbarous Foe, hereby incenſed higher, ſhould act the vengeance of their Rage on him. But he not ſo to be detained, returning to their hands, became a Martyr to the publick Intereſt, and his private Faith.*

XIV. *Of Fortitude.*

DIvers Nations have held *This* Endowment in ſo high an Eſteem, that they have not onely given *It* the Preheminence of all Civil virtues, but under the ſole Diſtinction of *This*, have farthermore implyed All the Reſt; Among which the French intimating a Perſon indued with General Worth, inſtyle Him *valiant*, after the manner of the *Romans*; who lent *virtue* Her Denomination from the Etymology of *Force*.

Whither this Cuſtom proceed from the natural Propenſion of thoſe Nations to the Exerciſe of this *Faculty*, or the proper uſe *Thereof*, is not eaſie to determine. Yet is it probable that this was the Firſt vertue, which viſibly imparted Her ſelf to mankinde, affording one advantage o're the other. Others, Contrariwiſe, conſidering the uſe Hereof, in Reference onely to exterior Objects, have ſo farr detracted from the Excellence of Her Eſſence, as to lend Her at moſt, but a conditional *Being* in Competition for Preheminence with the *former virtue* Affirming, *That there were no uſe of Fortitude, if Men were Juſt.*

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Antiquity distinguished, *This Faculty* under the Figure of a Virago, armed with Casque and Cuirace, a Javelin in *Her* Hand, the blunt End thereof posed at Her Foot; which Posture some confined to a fixed Station.

The Person under which the Mystery of Her Essence is shadowed; though of the same Sex, the other were figured: yet (besides *Her* exterior Investure) seems to have some thing in *Her Aspect*, distinguishable from the Rest, peculiar to *Her* Quality, implying a more Masculine Temper.

Her Armature, being of differing Nature, Defensive and Offensive; inferreth distinct uses, in Reference to one only Object, proper Safety.

The Position of *Her* offensive Arme implyeth *Her* Nature to be Accessably communicable,

The Stability of Her Station would intimate the Constancy of Her Resolution. This latter Distinction, *Socrates* in *Plato* condemns, deriding *Laches*, the Inventor; *Askt, if it were then Cowardise to beat an Enemy in yielding him our Place? alledging farther Homer* for Authority, *who applauds* Æneas *for his Dexterity in the Science of Retreat.*

Some have yet farther lent a Distinction to *Her* proper Nature, figuring two Kinds *Thereof*, *Philosophical* and *Military Fortitude*; yet, if we shall consider the *Latter* without Dependance on the *Former*. We must so far dissent from the approving such a Difference, that we cannot so much as entitle the *Latter* to a Participation in *Her* Nature. Since we see many Men (more through the Advantage of their Constitution, Passion, or Custom, then the benefit of their Reason) have assumed such a Habit of Resolution in the Exercise of Arms, as seldom formed is, by the most regular Discourse, the proper seat of *Fortitude*; which can admit of Ignorance nor Vice for an Associate in *Her* Faculty. The *Latter* was a stain to *Cæsar*'s Magnanimity, encountring, if not intending the Ruine of his Countrey.

Epaminondas's Practice in Arms attained onely a Capacity really worthy of so high an *Attribute*; whose exercise herein encounter'd the most Plausible and Legitimate Object. The Safety, Peace, and Glory of his Countrey, disjoyn'd from all peculiar Interests, so little took with Glory, or Reward, he always was too scrupulous ev'n to avoid Their shadows, assuming an affected Poverty.

If we shall yet farther weigh the Quality of *This* Distinction, as proper onely to the use of Arms; we may positively affirm *This* Function to be only a distinct Subject of *Her* Exercise, no distinct property in *Her* Nature; which arms the Mind with a constant and uniform Resolution against all

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the assaults of Fortune, as well as the weapons of our Enemies. Yet in Respect the course of Armes (lending a more ample Theatre to *Her* Action) exalteth the Perfection of *Her* Essence, rendring Her Effects more communicable, we may allow *It* to be the most eminent Subject, whereon *Fortitude* can properly be illustrated.

Which *Subject*, though not properly inherent to the Function of our *Minister*. Yet since it accidently may associate It, we shall desire, that *He* may be indu'd with Faculties of Mind and Body proper to the use *Thereof*; not so much for the ostentive Tryal of *This* His splendid *Attribute*, as in persuit of many other Advantages, redounding to the publique Benefit, which probably may ensue *His* Managing thereof: Being not only of approv'd Fidelity to warrant *His* peculiar undertaking, and of a General sufficiency of Mind to Order it; but by *his* frequency in Council, endued with a clear Intelligence, ev'n in the secret Mistery of publick Purposes, more perfectly to guide *His* Enterprize.

To appropriate more peculiarly *This virtue* to our *Ministry*, We will consider the joynt *Society* of this our *Civil* Frame, as the Inspiring Soul is to the exact composure of the Body. Thereby more visibly to find the proper uses of *Her* Faculties, under the Constitution of *Her* former Figure. Admitting it for granted, that *This*, as all other virtues whatever, must first be rationally digested into a Habit of the Mind, before it can be properly educed into useful Practice. The proper seat of *Fortitude* from whence still issueth Influence to animate the Members to *Her* Exercise, being (questionless) the joynt Concurrance of the Interior Faculties of the Soul to a Rational Prescription, resulting from Discourse. Forming This a Parallel to our *Society*, as the first mover of our *Civil Body*, we may conclude, The joynt Agreement of their Consultation immediately necessary to the common Safety, the sole Object of *His* Eminent Virtue.

Persuing the Parallel in *Her* exterior Investure, we shall meet with some useful Notions in Reference to our *Civil Structure*.

The principle Parts of *Her* Armature, we will first consider in their Nature, then in their Order or Position; which being only Defensive, informs us, that the most Natural and just Cause of taking Arms, is the opposition of the Assailant.

The Order or Position Thereof intimateth, what Places in a Common-wealth are chiefly and soly to be fortified. The most Noble onely; as the Head, the Seat of Council, and the Breast, The Receipts of Commerce.

The other part of Armature we will revise according to the

to the Nature, Number, Figure, and Fashion thereof.

The Nature Thereof being only offensive; Implyeth that a State is but halfe secured, that standeth onely on Her own Defence.

The number thereof being only single, inferreth the due Proportion of offensive Arms, in respect of the Defensive, which are double.

The figure thereof being long, implyes the proper use of Arms of This Nature, ought to have extent, remotely managed from our *Civil Union.*

The Position thereof seated in a passive Posture, inferreth, That a Nation ought to be invested with Arms of this Nature, as well for Ornament of Majesty, as Use.

To fashion yet *This* Vertue to the peculiar usage of our *Minister*, whose advice only being to us of use. The exercise of This Virtue doth herein only tend to keep the source thereof (*his Reason*) clear untroubled and unblemished. As the general Agreement of a Council to *her* prescription, can only make a Consultation useful. So the mutual concurrence of His Interior Faculties to *her* order soly contributes to the exact forming of *His* Judgement. This is the proper seat of Council, and as the noblest parts must first be fortified against the assaults of all Licentious Passions, the only Enemies on which our *Minister* shall, in *his Function*, have occasion to exercise *this* faculty, to keep His elevated thoughts in a tranquil serenity. The Fancy and the memory *hereto* communicate, are (as the Parts of *Civil* Commerce) next to be secur'd, lest the *Former* precipitated or pre-possest, the latter surcharged or diverted, should or corrupt, or else obstruct *his* Judgement.

The offensive Arme he ought to use against the Incendiaries of this civil Insurrection, is the *reversive* Opposition of their mutual Force, one Passion being aptly suppresst by the suggestion of another; yet not with freedom to their proper Motions, but under Reasons Conduct, which only can yield every one a proper allay to their looser Temper, and form their being useful to Her self, wasting or diverting their harmful violence on One Another.

The manner of *His* encounter with these Adversaries, (as was prefigured) ought to be mannag'd at remotest Distance, it is not safe to close or grapple with our Passions, but rather them to smother in their secret issues. Thus regulated, *his* very Passions will not only become useful, but graceful in Discourse, and render him not only agreeable to others, but pleasing to *himself.*

XV. *Of Temperance.*

THis *Faculty* may properly be ſaid to be the exact Teſt to the Preceding Virtues, lending each One their true Diſtinction, what allay the Nature of every Virtue yields to the Embelliſhment of our peculiar Actions, ſuch allay *This* (to the refining of their Nature) imparteth unto them.

Inſani ſapiens Nomen ferat, Æquus Iniqui,
Ultra quam ſatis eſt virtutem ſi petat ipſam.

Such is the imperfect condition of humane Nature, that no ſooner handleth the faireſt pieces of *Divinity* or *Philoſophy*, but immediately it corrupts the ſame, rend'ring, ev'n in the exceſs, That ſcandalous, this unſociable. Grounded on this Obſervation are the Inhibitions iſſuing from the Authority, which form'd their proper Nature. *The ſacred Letter* adviſeth us, *not to be wiſer then we ought, but to be ſoberly wiſe.* And *Callicles* in *Plato*, ſaith, *That the Extreams of Philoſophy are ſo far from being uſeful*, they become ev'n prejudicial to the Practicer.

This *Faculty* may ſeem to be more difficult then the reſt. Inſomuch as her Nature is exercis'd on a more elevated Subject regulating the ſecret Motions of their Properties: Other Virtues have more viſible Preſcriptions, But thoſe of *This* ſo curious, they ſeldom are exactly ſcrutable. Yet as *Her* Traces are more ſecret, ſo are *Her* Graces leſs oſtentive then Her Aſſociates are. Their ſplendid Luſtres ſeem to raviſh the intentive ſpeculator. The humble Modeſty of *This* at moſt, but to invite. Yet with ſo ſmooth and uniform a pleaſure, as the *Eudoſians* (of that Sect, who only therein places the chiefeſt Good) *under Her Conduct, form'd their high enterpriſe.*

Antiquity figured *This* Virtue under the Dimenſion of the ſame Sex, as formerly the Reſt, holding a Cup full of Wine in Her Hand.

Under the ſhadow of which ſingle Action, implying the Eſſence of *Her* ſimple Nature: Of all vertues *This* gives us the nigheſt Pattern of Mans firſt Felicity. Other Vertues have more violent Efforts, and require more exquiſite Capacities in Managing: yet ſometime nevertheleſs, in their Severity, do ſeem to ſhock the Image of Natures Purity; which is to *This* a perfect Guide, and *She* to Her a faithful Miniſter.

If we ſhall truly conſider the Idea of *Socrates* Diſcourſes; ev'n in the laſt and exacteſt Tryal of his Vertue, we ſhall evidently perceive, that the tranſcendent Excellence of his Minde was erected on the humble Scituation of *This* Virtue, neither in

Sence

Sence or Demeanor figuring ſo much as the ſmalleſt Appearance of Emotion, Force, or Conſtraint, but with that Calm Facility, delivering his Plea: as Vertue had in Him caſt off all Difficulty, the Foil lends Luſtre, if not Matter, to Her proper Eſſence: The Prize of Vertue conſiſting not in the High, but the orderly Exerciſe of the Soul; not in Greatneſs, but Moderation, which regulateth every Faculty thereof, according to the firſt Inſtitution, and innocent Condition of Nature. To reflect more particularly on the Nature of *Her* Action figured, which ſeems to be the Regulation of that ſenſe, moſt prone to exceed in her Licentious Miniſtry, and in that Quality of Matter, which ſooneſt ſeizeth on the Natural Light. Under the Object of *This* Senſe of Taſting, is figured the Appetitive Faculty of the Soul, as well as that of the Body.

From the Nature of the Action, which is a neceſſary ſupport to humane Nature, is figured the Neceſſity of the Work, whoſe end is, in the uſe, confined to *Her* meaſure. From the Poſition of the Subject, which is in Hand and View, we may collect, that the exerciſe of This Vertue hath only Reference unto Subjects, which fall within the Compaſs of our knowledge, Practice, and Poſſeſſion; In which reſpect, Abſtinence is totally excluded *Her* Affinity.

In the Quality of the Subject is figured the difficulty of the Work, both in regard of the volubility of the Matter, and the alluring Faculty of the Nature thereof.

From theſe figurative Diſtinctions, we may happily form ſome Notions eſſential to the uſage of our *Miniſter*: How neceſſary an Exerciſe *This* is, will appear in the Advantage or Benefit of the uſe, which tendeth to the due Regulation of every Senſe and Paſſion to the Miniſtry of Reaſon, the only light to all his Conſultations; which Paſſions are the very Springs that lend the Soul her proper Motion: which if extinguiſhed, according to the uſage of the Stoicks, *the* Soul, as *Mountaign* ſayes, *Would remain uſeleſs in her Functions, like a Bark at Sea, ſuſpended from the ſuccour of the winde:* But if the Paſſions were abandoned to their irregular Motions, Reaſon would be tranſported from her proper ſeat, with violence of the Agitation, and the exterior Senſes become diſabled to *Her* Miniſtry.

In which Reſpect, that exceſs in the uſe of Wine ſhould properly precede a Conſultation, as neceſſary to the Eſtabliſhment of Council, may juſtly be eſteem'd, if not a Contradiction, ſo groſs an Abſurdity, as no Cuſtom can Authorize, or example parallel: yet among the *Perſians*, it was an order ſo frequently and ſtrictly obſerved, that it became at length digeſted to a Rule; on what reaſon, ſo extravagant a Cuſtom ſhould be grounded: Reaſon it ſelf can ſcarce produce Conjecture, unleſs

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it were by ſuch exceſs of Wine to animate or correct the vital Spirits in a defective Temper, become ſo through the innate Intemperature of the Climate, Age, Conſtitution, or Habit of the Practicers: Which uſage, in *Mountaign*'s Obſervation, ſo happily encountred the Temper of a *Miniſter* of State in his time, That he affirms *His* Enemies felt often the Effects thereof to the common prejudice of their Affairs. In which Regard perhaps the Diſcourſes of Philoſophers have handled this Vice ſo tenderly: And the *Stoicks* (who admit of no Emotion) have uſually diſpenc't with this, if not encourag'd It, unto the Relaxation of the Spirits.

Hoc quoque virtutem quondam Certamine magnum,
Socratem Palmam præmeruiſſe ferunt.

And *Cato* the ſevere *Cenſor* and Corrector of other mens manners, hath been nothing Scrupulous to avoid reproach in this,

Narratur & priſci Catonis,
Sæpe Mero caluiſſe Virtus.

Yet can we not in reaſon admit of the exceſs thereof in uſage of our *Miniſter*; not only on the point of publick Conſultations, wherein the moſt paſſive minde hath more need of the uſe of Lead, then of Plumes: Weight to counter-ballance the irregular Agitations thereof, then Fire to incenſe them: But alſo in the private Regularity of the whole Courſe of his Life, both in reſpect of the licentious volubility it lendeth to Diſcourſe, endangering thereby the ſecrets of His Truſt, as alſo the ill Habit may be in Nature form'd, who ſuddenly, through uſe, may be induced to expect ſuch artificial Aids, elſe fall abjectly from her proper vigour. The effects of Wine working but by unnatural, unequal, and conſtrain'd Efforts on the Elation of the Spirits; which when exhal'd, as Springs wound up beyond their Pitch, become relax't, left to their proper Motions: So that ſuch Practice took in the perfect'ſt uſe, will rather ſeem a Mark of *His* Infirmities, then lend a Grace unto His Faculties; which thus acquir'd, can, at the moſt, entitle *Him* but to a borrowed ſufficiency, not properly *His* own: yet if accidentally the liberty of Wine might in exceſs be Licenſed, it ſhould be under Limits of the *Carthaginian* Reſtrictions, which were, *That every man ſhould be therein ſparing on Martial Expeditions: That every Miniſter of State or Magiſtrate ſhould abſtain from the uſe hereof on Conſultation of publick Affairs or Execution of their Charge, That therein the Day were not imploy'd, nor that night deſign'd for Procreation.*

Many

Many men, through the Impotence of their Nature, or Indigence of their Fortune, may seem to assume a passive Resemblance of the Image of *This* Faculty in their Actions, when really the very shadow thereof was never fashion'd in their Thoughts, the Exercise of this Vertue must have an unprescribed Theatre to represent Her Lustre: and a clear Judging Intellect to regulate the will. Action is Vertues Nature, and Difficulty Her Life: Her Productions are not passive nor Impulsive; neither is the Object of *this* faculty seated in the sense, but in the exact ordering of the Interior Faculties of the Soul. *Cato* infer'd no less, when on discovery of *Caesars* Amorous Letter in the *Senate*, he reproacht him with the title of a *Drunkard, who was*, elsewhere affirmed, *to be the only Man, that e're came sober to the Ruines of his Countrey.*

How difficult an Exercise this is, may be collected from so numerous a variety of Objects of repugnant Natures, both Exterior and Interior, which continually sollicite the appetitive Faculty of the Soul to shun or to embrace; affording it in so fluent a Distraction, no Intermission to deliberate on the Election. Of all which, we will here only for brevity, advise our *Minister* to be vigilant on two, as more especially co-incident to the Corruption of *His Ministry*, Envy and Ambition. Of Moderation in Occurrences, which may lend Fuel to their Passion. *Cato's* Demeanor affords us a most singular Pattern, who suffering a Repulse, in competition for the Consulate, was so far from the attainture of any indecent Emotion on the Distinction thereof, that he wished all his fellow Citizens were indued with so eminent Faculties, as to be preferr'd likewise before Him.

XVI. *Of His Election.*

HAving thus accomplished our *Minister's* Person, and polished *His* minde to the exact Exercise of *His Ministry*, it will be requisite to agitate on a certain method, which may infallibly educe Him into Action, without the help of Fortune, we frustrate else the scope of our Intention to leave *His* Institution to so blinde a guide, whose influence (to make her Pow'r appear more eminent,) will rather be imploy'd on Subjects want Capacity, then elevate such, whose worth may claim a share in her secluding *Ministry*: On which course to advise ere we proceed, we must prefigure a distinction in our *Subject*, not in reference to the Nature thereof, but the Institution: Of which there are two kindes, *Special*, and *General*.

Special Ministers, Such as are instituted by the sole and immediate Authority of a Prince or State.

General Ministers, Such as are under the Authority of their

Orders, instituted by the joynt Concurrence of the people.

To treat whereof distinctly e're we insist, we shall reflect first on our *Minister's* Demeanor in reference to his Institution of what kinde soever, and impose on *Him* a severe Interdiction, neither obliquely nor directly, by Personal Solicitation or friendships Intercession to move for His own Introduction, or any otherwise appear therein, such Agitation being a procedure altogether unbecoming the dignity of *His* Office, The Perfection of *His* Endowments, and the Integrity of *His* Intentions,

1. A Blemish to the Dignity of *His* Office, in regard such Competition and siding, rather figure our Purpose an Object of our private Commerce, then of the publick Benefit, every man expecting to be advantag'd in their private Interest by Him they have advanc't to a capacity to farther it. On the other part, the pretender implicitly infers no less in His abject, assiduous, and mercinary Addresses, which if successful, inthral the freedom of his minde in civil Tyes, which must be dis-ingag'd at expence of the publick Interest.

2. It is moreover inconsistant with the very Appearance of those Perfections, which should intitle Him to any Right in this *His* Dignity, to assume such vanity in His ostentive claim, as to become *himself his* proper Advocate: Vertue for such can scarce be qualifi'd, that secretly propounds but to it self a Recompence, much less for such, that publickly shall challenge it, as her own property.

3. It farther renders His Intent suspect to prosecute *His* purpose with such Ardency, Vertue, 'tis true, can have no nobler Object then the publick Good (which must exalt the very essence of Her Nature) rendring her Effects more communicable: Yet her progressions are nor violent nor irregular. Such Efforts may be shadowed with her Attribute, yet are but secret masks to Avarice and Ambition.

To persue the Order of our Discussion on the Distinctions of *His* Institution. We first must agitate on *His* especial Election, which soly and immediately depending on the Arbitrament of a Prince or State, the succes only rests in their Direction: to which, since the capacity of Judging in a Prince, is oftentimes obstructed by his proper inclination, Others Intercession, or by a remote, reserv'd or disguis'd Communication. It were far safer to require the Presentation of *His Minister* from the concurrence of the *Society*, to which he is to be a Member, under adjur'd Prescription, That without fear or Favour, they shall impartially propound no Person to his Trust, for any other consideration whatsoever, then for the advantage they conceive *he* holds or'e other in His Sufficiency and Integrity. And lest the Nature of this Method might bear some appearance to form

form a Faction. The whole *Society*, if of too large a number, may be reduc'd into a ſmall Committee, whoſe joint concurrence onely ſhould have force to nominate the Pretenders, which might amount to ſuch a number, the Majeſty of a Prince might in the vaſt extent thereof, remain unblemiſhed in the Election.

The *ſpecial* Election of *Miniſters*, under the ſole and immediate Authority of a State, requires more Caution, becauſe more incident to Faction. The Election therefore (under the ſame Preſcription) ſhould yet be more obliquely managed, removing it far from the Intereſſed, by changing ſundry times the Inſtruments thereof, who thereby ſhould excluded be from ſuch Pretenſion. No Elector near or remote, retaining a Capacity to be Elected, after the *Venetian* manner: for example, The whole *Society* makes choice of Fifty Commiſſioners, which Fifty inſtitute Thirty, which Thirty ſelect Ten, which Ten Three, which Three determine only on the Election.

The *General* Election of *Miniſters*, whoſe Inſtitution hath (with the Princes or States Authority) relation to the concurrence of the People, is yet of higher conſequence then the reſt; Inſomuch, as in ſuch conſultation, Laws are uſually enacted, reformed or repealed; new Impoſitions leavied, and weightier Enterprizes managed or deſign'd; In all which changes, the People make an eſſential Surrender of their Fortunes, Lives, and Liberties to *His* Truſt, without pretence of Reparation, the Iſſues being damageable, ſince licenſ'd by Their proper Act; It cannot therefore in reaſon, be a proceeding warrantable in the ſelecting of this *Council*, to commit the eſtabliſhment thereof ſoly to the Direction of a ſhallow multitude, whoſe ſouls do ſeldom move to other Object, then the ſenſe, prefiguring (in Reference to the Competitors,) rather who makes moſt frequent and moſt ſumptuous Feaſts, who lets His Tenants ſet at eaſieſt Rates, then who hath given the faireſt proofs of Prudence or Integrity, both in the model of His private Oeconomy, and in the intercourſe of publique Commerce. Furthermore, admit the Rabble of Capacity clearly to diſtinguiſh Agents proper to our *Miniſtry*. Their Eſtates for the moſt part, have too much dependance on anothers will, to leave theirs ſo much liberty might make the Election free; ſo that of neceſſity, the rich only having advantage in the number of Tenants, acquiring the ſame in the number of votes, may claim *His* Introduction, by an unqueſtion'd priviledge, ſo fruſtrate, if not pervert the Intent of our *Convention*; which Inconvenients to avoid, we muſt collect a compound Method of Election from the preceding Models.

First,

First, not to infringe the Immunities of the People, the course thereof may thus (without suspect of prejudice, or to themselves or others) Commence and Terminate in their Agitation.

Commission issueing from the supream Authority of a Nation, being directed to County or Corporation for the Election of a *Minister* unto a publique consultation, whither such Order extend unto Freeholders, or Free-men only, or unto Masters of a Family in General; it is not much material, provided, they shall only (under the said Prescription) by the advantage of their votes, design a new society of a much smaller number, to agree on the selecting of a less, which should return unto the first Assembly, a double number of the Ministers proportion'd for that Place, from which they only might select their choice.

XVII. *Of His Institution.*

OUr *Minister* thus advisedly and authentiquely Elected, to illustrate *His* Admission with more Grace and Order, we shall proceed unto the Manner of His Institution, which as we formerly have distinguished, we will distinctly handle.

If, as a *special Minister*, his preceding Election terminate onely in the agreement of a Prince, an Order onely issueth in His name to specifie to his *Minister* the Grace of *His* Election, with Summons to repair to him for *His* Instructions, to which appearance made, our *Minister* at first Aborde on Oath, shall yield an Evidence he hath, nor secretly, nor sinisterly practised with any to procure His Introduction; to which the Oath of His Alleageance tendered, He is admitted to attend the Orders of his Soveraign, from whose peculiar consultation *He* is to be enlightned in his purposes. What enterprizes have preceded, what yet in Agitation, what designed, how persued, and whereon grounded; to the Intent our *Minister* may not come blindly unprepared to officiate, whereon proceedeth a command an order be addressed to his *Council* for His Reception.

If as a *special Minister*, the concurrence of Commissioners of State, or else their substitutes determine the Election. The intimation thereof is by the immediate Electors returned to the primitive Committe, from whom Order issues to the Party Elected for his personal attendance, on whose appearance the examination of the Manner of his Election is in like Method persued, the National Oath tendred, Instructions passed, and such Remonstrance returned to the Senate to authorize *His* Reception.

If, as a *General Miniſter*, *His* Election extend yet farther to the concurrence of the People. The Election, as aforeſaid determined by them, may by the Officers of that Shire or Corporation (authorized to o're-ſee the courſe of this Election) be inferred forthwith to the Party choſen, with ſummons to repair to Them for his Inſtructions, upon whoſe Preſentation *His* Teſtimony as aforeſaid on Oath delivered, to ratifie *His* Sincerity in courſe of *His* Election. The National oath of Loyalty, with that alſo of *His* Fidelity to the Peoples Truſt being tender'd *Him*; the overture of all their Grievances and Requeſts, may by the foreſaid Officers be made to *Him*, to be preferr'd to the Supream Authority, to whom they by certificate return the Authority of *His* Election.

XVIII. *Of His Reception.*

HAving attain'd His Writ of Inſtitution our *Miniſter* is thereby required to make *his* next Addreſſes to the *ſpecial* or *General Society* (or Officers deſigned to precide the ſame) for His Admittance. The nature of which Ceremonie retaining the ſame Objects in every Diſtinction of the former Diviſions, will concurr in one common Method; preſenting to our Miniſter a ſtrict and ſolemn Injunction, conſiſting of Two Principles in reference to the Integrity and Succeſs of *His* Council, Impartiality and Secreſie.

How prejudicial the Nature of a partial Judgement is to the Eſtabliſhment of a ſecure Advice, may to every common ſenſe be evident in the woful Iſſues of ſundry publique conſultations, where the privately intereſſed Agents, under pretence of common benefit, inveſt them with the common ſpoils of their own ruin'd Countrey.

As unbeſeeming alſo is it to the Honour of our *Miniſter* to betray the Truſt of others to the Advantage of His private ends, and ſo deface the very Image of His Creator, belying *His* own Reaſon in favor of the Senſe.

Secreſie is alſo, in the very Nature thereof, no leſs Requiſite to the ſucceſs of a mature Advice. Publique Deſigns are often fruſtrated by common Rumour e're they are put in Execution, nor becomes it the Dignity of our *Society*, to make their daily Agitations of ſo little weight to be the Subject of each idle Cenſure, e're they are fully formed for a timely Iſſue.

Which Ceremony finiſhed, and *His* Name by the Clerk of the *Aſſembly* Regiſtred; *He* is, in Order to *His* Election admitted to His Seat. And if a General *Miniſter* receiv'd, according to the *Roman* Manner, paſſeth *Pater Conſcriptus*.

XIX. *The general Object of His Office.*

OUr *Miniſter* thus imbarqu'd for publick conſultation, leſt ſo high an erected Mind ſhould improfitably float on the ſurface of a doubtful Agitation, and be transported from our uſe by every irregular Emotion. It will be requiſite *He* always have in view the perfect Object of *His* Inſtitution, the better to direct *His* Courſe, through the Tranſaction of *His Miniſtry*, He may at no time deviate from *His* glorious Enterprize.

All Nations, Sects, and Factions, how differing ſoever in other Opinions (or repugnant in their Practices to the Nature of their own Diſtinction in this) agree in the Expoſition of the Object of our *Miniſtry*, poſitively affirming It to be the *Publique Good*; But in what, the Nature of this *Publique Good* conſiſted; few have ſufficiently enlarg'd upon, ſo conſequently, obſcurely, but perſu'd her Acquiſition; yet under what Definition ſoever this *publique Good* hath been figured in the Diſcourſes of Immaginary Common-wealths; the ſecret Practiſes of all Eſſential States (exactly diſcover'd in their undiſguiſed Iſſue,) will truly inform us, the means to attain this *Common Good*, neither is, nor ever hath been really believ'd to have been rais'd on any other Baiſe then *Wealth*, *Greatneſs*, or *Glory*. Which ſince ſo generally and paſſionately perſu'd by each united *Miniſtry* of *State* we briefly will examine, how farre ſuch Attributes have or may conduce to the exact contexture of our *Edifice*.

Firſt, If we ſhall reflect on the Effects of *Wealth*, as univerſally diſpenſed through the ſeveral Members of a *Civil Frame*, proportionable to the Quality of every part thereof; we ſhall find juſt Cauſe to ſuſpect there may (ev'n in ſuch Affluence) be an exceſs, which might be inconſiſtant to the perfect conſtitution of a *Common-wealth*. And although *Riches* may be ſaid to be the Nerves of Warr, armes the ſecurity of Peace, Peace the Crown of every *Civil* Enterprize, yet it muſt ſtill be with this Limitation; That *It* may be proportion'd to the uſe, Holding therein a true *Analogie* with the Natural Body, which receiving the moſt perfect Element whatever, and thereof forming the moſt perfect Coction and Diſtribution, may yet nevertheleſs, (as Naturaliſts inform us) in an unequal Repletion, become *Plethorique, quòad vires*, and *quòad vaſſe*, both in Reſpect *of the natural vigor*, or in Regard *of the natural veſſels*, and ſo conſequently, either ſuffocate or extinguiſh the innate Heat. The proper inſtrument to all the Faculties thereof, or elſe extend the Organs beyond the true capacity of their Continent to the Production of a dangerous Rupture.

Persuing the Parallel to this Pattern, we (from the Image of this prefigured Distempers in the Natural) may visibly collect like Inconvenients inherent to the Affluence of *Riches* in the *Civil* structure. In Reference to the four natural Humours, either *actively* or *passively* receiving several Dispositions or Aptitudes to form the like Disorder.

1. In the Sanguine Temper, Plenty procures Wantonness, Wantonness, Lux; Lux, Riot, Riot the extinction of the Natural, Vital, and Animal Spirits; the immediate Instruments whereby the Faculties of the Soul are educed into act. A proof of this opprobrious Termination is figured to us in the Translation of the *Assyrian* Empire from *Sardanapalus*, to the *Medes* and *Persians*, and to the extirpation of the *Persian* Empire by the *Greeks*; who as a latter Historian sayes, came equipag'd to the Encounter of their Foes, as if design'd to celebrate a Mask, rather then to execute a Fight. And from thence also sprung the Ruine of the *Grecian* Glory, as appears by *Hannibals* Judgement of *Antiochus* Army, when in their ostentive Bravery presented to his view: And by the Macedonian King demanded arrogantly, If that his splendid equipage of War were not sufficient for the *Romans*, replyed *scoffingly*, *Enough*, *Enough*, *were the Romans the most covetous Nation of the world.*

We might here farther instance the several Breaches the succeeding *Roman* Empire suffered by the like Distemper in sundry changes of the Constitution of their Government, under the Rule of some Licentious Princes; As also the Tragick Issue form'd from hence to *Anthony* and *Cleopatra's* Naval Gallantry. But, such extent of Examples (though otherwise agreeing to the Reader, we have, from the first entrance on this work, resolved to avoid, how fluently soever they might fall into our memory. In that they possibly might swell into a Bulk, not answ'ring in proportion to the due Structure of our *Treatise*. And so instead of Ornament and Illustration to our Arguments, disguize the uniformity of our Method to the obscurity of the sense thereof; which here to re-assume, we must again reflect upon our premised Distinction.

2. Affluence of *Wealth* meeting with a flegmatick Temper, enduceth Security; Security, Neglect; Neglect Sloth; Sloth benumming the Natural, Vital, and Animal Spirits, depending on each others circular contribution, extinguisheth the Innate Heat, so consequently tends unto the same destructive Issue.

3. Riches encount'ring a melancholly Temper, forms a delightful Scene to entertain the flattering thoughts with Love of their own Image: Self-Love swells to Self-Conceit, Self-Conceit to Pride, Pride to Ambition, Ambition to the actual Combustion of the *Civil* Frame.

4. *Opu-*

4. *Opulence* inveſted by a Cholerick Temper, foments a nice Diſlike, Diſlike cheriſheth Paſſion, Paſſion Stubbornneſs, Stubbornneſs Temerity, Temerity Preſumption, Preſumption Striſe, the common Incendiary of a civil union. Secondly, The efficacy of Treaſure, in relation to the *Publick Good*, examined, when engroſſed in the Exchequer of a Prince or State, may yet be judged of leſs prevalence to the due forming of our perſu'd *Object*; conſidering that ſuch affluence to the Publick ſtock, at length exhauſts the private ſources, furniſh't the encreaſe, according to Trajan the Emperor's Similitude of his Treaſury to Tumors *of the Spleen, as which encreas'd the other Members of the Body ſtill were Leſtned, and at length periſhed, deprived of the due proportion of their Aliment, unſeaſonably attracted to foment ſuch Diſorder:* So common Receipts ſeldom become enriched but by the general Impoveriſhment of the people: Which Indigence ſo diſableth their faint Bodies, and dejecteth their ſervile minds, that they are neither uſeful to the *Commonwealth* in time of Peace, to lend It ornament or enlargement: nor yet in time of War thereto to contribute or Succor or Defence.

To lend more force unto which Argument we may yet farther adde, That ſuch Accumulations oftentimes become the only Object of an hoſtile Invaſion, when the indigence of a neighbouring State, oppreſt with number, debordes their uſeleſs multitude on the moſt flouriſhing Continent. To paſs over with ſilence divine Inſtitutions in Reverence thereof, we might affirm this to be the viſible motive of the Children of *Iſrael* penible enterpriſe through the Deſart to the Land of *Canaan*, they thereby might exchange their *Onions and Garlick* for *Milk and Honey*. *'Twas the deliciouſneſs of their Wine, brought the Gauls into Italy.* By the like inducement were the *Goths*, *Huns*, *Vandals*, and *Francks* invited to the Devaſtation of the Roman Empire, by which Aſſaults the Scepter was at length tranſplanted from that Seat.

2. The ſecond Tract ſo frequently in uſe to aborde This our affected *Object*, is *Greatneſs*: which *Attribute*, although implying vulgarly a double ſence, might ſeem to want a farther Expoſition, either in reſpect of the qualification of our *Subject* in Power, or in regard of the eſſence thereof, in Dimenſion: Yet ſince the qualification of every Subject may properly be ſaid to be inherent to the Eſſence thereof, We will reduce the intimation of the former into the intention of the latter. And take a view of this our preſent *Subject*, according to the Nature of *Proportion*, to weigh how far the vaſteſt extent of a *Commonwealth*, may properly conduce to the due forming of the *Common Welfare*.

In perſuit whereof, if we ſhall reflect upon the Courſe of Na-

Nature (handmaid to the perfect'st Governour) to see what Limits she observes herein to attain perfection in her useful Structure. We may distinguish, that she faileth much of her Intention, when she encountreth matter dis-proportion'd to the scope of her intended work, and either falleth under the burden of her proper Continent, her vigor spent or weakened e're she is able to communicate her force to the extreams too remote from their principle, from whence was form'd their union, or raiseth to her self but an imperfect and irregular structure; so that the parts thereof, wanting capacity to receive the impression of her Faculties, must hasten to a sudden ruine.

In the former manner sunck by degrees the *Roman* Empire, under his prodigious Immensity.

In the latter manner vanished immediately the Grecian Empire under his unform'd contiguity.

And according to the same method, ev'n Nature her self seems to haue proceeded in the composure of the whole sublunary frame, in favour of our *Civil* union, prescribing scarce accessable Divisions to Scituations of distinct *Communities*, to facilate that Harmony should so arise from the Agreement of such equal Temperatures, in a close Precinct; which, in a vaster Latitude, suffering unequal Diversities from those various Impressions, which the Element, (our common Aliment) conduct to us from the Influxes of the Stars, would prove but too repugnant in the parts to constitute so unanimous a mixture in our *Civil* Composition, as might be needful to a common union. Such bounds hath Nature wisely trac't to the aspiring *French*. The East part of their Jurisdiction secluded from the Coast of *Italy* by the *Alps*; the South from *Spain*, by the Pyrenean Hills; the North from *Germany*, by the *Rhine*; the West from *England*, by the Sea. So *Italy* and *Spain* are by the *Ocean* wisely limited, could but the Rules of Nature or of Reason prescribe any to Avarice and Ambition.

3. The third pretended conduct to our *Object* is *Glory*. A Tract, 'tis true, not frequently in use, perhaps because not clearly obvious to the refined'st sence; and of most held too slight and inessential a material for the foundation of our *Civil* welfare. Yet when we shall collect from the first model of the *Roman Commonwealth*, what speedy progress, and how lasting Attcintures the ravishing Lustre of *Her* Essence *Heret* hath acquir'd, e're disguis'd with adulterate Ornaments, *She* appear'd in *Her* native purity, we may conclude *She* really out-stript *Those Her* Competitors in the advancement of *Her* purposes.

What Soul so stupid that shall but reflect on the attractive Graces of their primitive Vertue, than will not without scruple affirm, that the influence thereof won more mindes to their

Rule, then their Swords Bodies to their ſervitude. *Camillus* ſo prevail'd with the *Falerians*, *T. Q. Flaminius* ſo withdrew the *Grecians* from the Macedonian Aid, by his Humility, Courteſie, and Juſtice. The *Glory* of whoſe Vertue, yet in her antick Aſhes, hath ſo ſenſibly affected a high erected minde of latter times; (otherwiſe inattaintable to ſuch Affeteries) That * he hath left a laſting Monument to the *Vanity* of his Paſſion, to *be inſtil'd a Roman Citizen:* But the ſplendor of thoſe endowments were ſuddenly ecclipſt, when *She* corrupted by the allurements of her Concurrents, *Wealth* and *Greatneſs* became a common proſtitute to their Impoſturies. The frailty therefore of *This* Inſtrument weigh'd with the Imperfection of the former, in reference to the *publick Good*, diſcloſed thus, enduceth to propound more real and diſtinguiſhable Lights to the diſcovery of our intended *Object*, to which the formerly diſcuſſed *Subjects* may conſequent Aſſociates often be, but no eſſential Materials to the compoſure of our *Civil Structure*, the perfect'ſt ſimitry of Rule to form the *publick good*, more properly may thus be figured, *Where by an Authentick, equal, known an inſubvertible Law, the Lives and properties of the Members of a Civil Government are timely and impenibly Secured and Improv'd both to the private and the Publick uſe:* On which Foundation we will endeavour to erect the Structure of our *Civil* Fabrick.

* *Mountaign.*

XX. *The Authority of the Law.*

MAn, from the fall of his firſt inſtinctive Purity, abandon'd to his own Direction, retaining an imperfect ſhadow of the former light, did aptly qualifie him for the Dignity of his firſt Inſtitution, in this his Independency, became ſo arrogant and preſumptious, he would ſubmit to no preſcription but his will, no not by way of precept, leſt ſuch an appearance of advantage in the Intellect ſhould ſeem to intitle other to a fairer Intereſt in this his forfeited Prerogative: which inflexibility and repugnance of Spirit enforſt the wiſeſt Legiſlators to have recourſe unto more powerful Aides then humane Reaſon, to rectifie and reclaim ſo licentious and irregular an Inclination (as counterfeits of *Moſes* procedure in his Divine Inſtitution of the Jewdaick Law) pretending all to have received ſuch Preſcription, in a ſupernatural manner, immediately from Heaven. Such ſpeculative Ordinances *Licurgus* the *Lacedemonian* Legiſlator pretended to have receiv'd from thence, by the community with his Hinde, ſuch *Numa* with a Nymph, ſuch *Mahomet* with his Dove: And ſince they were not able to perſwade, endeavour-

deavour'd thus to cheat the ſenſe, the corrupt *Miniſter* to the will. But ſuch Impoſturies may eaſily be diſclos'd in the reſemblance of their prodigious iſſues, which bear not the ſimilitude of their pretended pattern.

The *Moſaical* Law exactly repreſented the Divine Character of ſuch a principle, conſiſting of two united, yet diſtinct Tables, as containing Subjects of a differing Nature, in reference to one only Object, *Common Union*; which equally was expounded by the holy *Word*, *Love God above all things, and thy Neighbour as thy ſelf*: From which compendious ſtock were extracted by the inſpired *Miniſter* (for Illuſtration and Eclarciſement) the iſſuing Branches of the Ceremonial, and the Moral Law. And although the reſult of the firſt *Apoſtolical Council* ſeems to diſpence with ſuch Ordinances, *as a yoke too weighty for their Fore-fathers*: yet is it queſtionleſs to be ſuppos'd in Reſervation of the original; in which Diſtinction the *Cabaliſts* generally ſeem alſo to agree: affirming the *Decalogue* only to be the Law of God, the *Appendices* the Inſtitution of Man. This Expoſition the ſence of *Moſes* words (in the Publication thereof) ſeems implicitly to confirm. The Preface to the Principle Decrees being, *God ſpake theſe words and ſaid*. The Introduction to the Collateral, *God ſpake unto Moſes and ſaid, ſay unto the people*. In conſequence of which Argument in obedience to the Inſtitutor, we will poſitively admit of the principle, as a Rule unto our Ordinances, and in Reverence to his *Miniſter*, not neglect the Appendices, as a Light unto our Inſtitutions, how which hath been, or yet may be purſued to the exact conſtituting an unqueſtionable *Authority* to a Law, We farther will examine. The Ornaments moſt in uſe to the inveſture of this awful Majeſty of Rule, are either (in regard of the Act) formed from *Antiquity* or *Cuſtom*. Or (in reſpect of the Actors) from their *Virtue* or *Pow'r*.

Between Antiquity and Cuſtom (in Relation to common Rights) there is only this Diſtinction: The latter may properly be ſaid to be the unform'd and illegitimate Iſſue of the former, unform'd in regard it bears not the diſtinguiſhable ſignature of a digeſted Law, though it executeth the priviledge thereof, extracting the Virtue of ſuch efficacy from Toleration, rather then Commiſſion. Illegitimate in reſpect the Original thereof alwayes is ambiguous.

1. *Antiquity* (for Reception) pleads the Perfection of Her work, from the ſtability of the materials thereof: the Propriety thereof to the uſe, from the Facility of Her builden (form'd in a long digeſted Habit) the conſequence of the continuance thereof, from the common danger inherent to an Innovation. The eſſential weight of all which Arguments, we farther will endeavour to diſcover.

The

The pretended proof of the Perfection of Her work (rightly understood) is but a Badge to the inherent Distinction of her own Nature. What e're is Aged styl'd, of necessity implyes the same must have been lasting: Neither doth the perfection of our Subject fall under the predicament of Quantity, but Quality, *Non quàm Diù sed quam Benè, Not how long, But how well.*

The Propriety of her work to the use is improperly posited a consequent to the facility in execution, since we may sometimes observe ev'n Nature her self translate the use of Parts; which not rightly constituted did frustrate her Intention: so in defect of hands some have exactly written with their feet. Which Action wanting the Grace and Order of Natures Institution, may rather be instyl'd a Prodigy, then a perfect Ministry. Practice may possibly form a Habit in imitation of Nature or of Reason, which properly are consonant unto the Rules of neither. In discovery whereof, if we shall search into the Primitive Models of *Civil* Government, we shall finde therein such ridiculous Absurdities (notwithstanding the common Union hath been lasting, and perhaps flourishing) that a clear judging Spirit will admire how the reverence of this Idol should keep enlightned Ages in such servility, as not to dare to handle her yet remaining Relicks: probably this may be in honour of the Vertue and Felicity of the Communities of those times, whereof such Institutions may be thought to have been the immediate Instruments, when really they are not so much as the remotest Relatives thereto. But the happy issues only of mans declining, yet not totally subverted Innocence, as nigher the Original of his first Purity: but when this wilde distemper had attain'd to a more eminent extream, exacter Rules became requisite to rectifie the disorder.

The third pretence whereby *Antiquity* may claim a right to her Establishment, is the consequent danger to an Innovation. 'Tis true, all Alterations, how profitable soever, bear in their Introduction an appearance of damage, especially not rightly managed (as when too sudden, or to the preceding directly opposite:) Yet any Pilate, though but meanly skill'd, may easily avoid those shelves, insinuating his Purposes by imperceptible Degrees, and guiding them obliquely to their End.

Yet lest this notion (in the ejection of Antiquity from the right of a just Authority, to the Institution of a Law) should altogether seem impertinent to the use of that *Community*, to which this Treatise is peculiarly addressed. To enlighten the Intention of our Argument, we humbly crave permission to weigh the consequence of a proof, extracted from our common usage.

Omit-

Omitting to insert intails of Lands by private Act or Testament (although the Tenors thereof terminate in the succeeding consequence) because therein perhaps may be alledg'd, the Laws were guided by the intention of the Donor, in the disposing only of his own. We will disjoyn them from all other Reference, and leave them soly to their proper issue, admitting (for example) *A man (by his own acquisition) become possessed of a real Estate dies intestate, and leaves surviving a dozen Children, Males and Females: The Law confers the said Possessions wholly on the eldest Son, in right of His Succession, with small regard or none unto the Rest,* who thereby are enforced to subsist on Almes or Servitude.

With all due reverence to our Legislative Power, can the allowance be adjuged equal? where the very innate form of Natures Rules (so sweetly and infallibly guide every Beast by secret and instinctive Motives to the impartial preservation of their kind) may seem extinguished.

Nor is this Law less dissonant to *Moses*'s Moral Institutions, *Which to the Primogenitor only, yield a double share, as the advantage of his Birth-right.*

The Civil Law, above the rest, affords him meerly but the privilege of a more eminent Distinction, excluding, in his Right, the chief Seat only (to the extent of a Capon flight) out of the common Partage.

But to make clearer discoveries into the Nature of this Institution, if we shall yet farther visit the secret props of the Foundation by such Lights are afforded us to make Inspection into so obscure and remote circumstances, we may finde, that private Vanity and Faction have been the chief Promoters of this procedure, to which (not being of power sufficient to form it to a Rule) may probably be joyn'd the Ambition of the Institutor, as the depending Aids to his support.

How common and ridiculous a Passion hath transported the sence of man to perpetuate the glory of his Name by the enriching of their Families, our Nation daily may afford too visible and deplorable proofs; where it is become a plausible practice, to abandon their own proper issue, to raise their Memory on so vain a shadow, that it wants frequently or knowledge, or relation to lend it a pretence to such Inherency. *This distemper of the minde destroy'd that Miracle of the world at* Ephesus, *where the obscured Actor wanting, or worth, or wealth to enlarge his memory, lest dead he were forgot, would make his Name remarkable to all succeeding Ages by the eminence of his Mischief. So* Nero's *Mother being foretold the danger to her Person in her Sons Succession to the Empire, cryed out, possessed with this frantick Passion, Let me dye, so he may Reign.*

That faction should advance this Institution, it is probable

(ſuch being the unlimited Envy and Avarice of Man) that (ſetting all other appearance of Enmity aſide) the moſt equitable enlargement of one Family near another, is of ſufficient prevalence to engender ſecret Emulations, which are not long contained in ſuch obſcure Limits, but ſuddenly break forth to publick Ruptures of Diſſention, which to foment (they dying) contract their Faculties in one Principle, thereby to contribute more force to encounter Oppoſition.

The Intereſt of the Inſtitutor may hereto alſo concur, whoſe greatneſs conſiſting in the Power of his Homogers, did conſtitute ſuch Tenors to Poſſeſſions, as might no way be weakned by Diviſions, when ſummoned to his ſuccor.

But the moſt material Inconvenience inherent to this *Civil* practice, is altogether repugnant ev'n to the very Nature and Primitive Intention of the Law, which is *Civil Union*; and ſo much the more prejudicial is the conſequence, by how much the Breach thereof is nearer the original of Unity, Amity, or Friendſhip, which *Ariſtotle* affirms, Legiſlators have in the eſtabliſhment of their *Civil* Structure, more regarded then Juſtice it ſelf. Can there be a more viſible, Impulſive, and ſenſible cauſe of Diviſion between Brothers, then that the Legitimate Children of one Father ſhould (through neceſſity be reduced into Dependance, Subjection, nay Servitude one of another, without the advantage of any other Endowment, then the precedence of a little time. *It was the apprehenſion of ſuch unequal ſubordinacy did inſtigate the Patriarch's combining iſſue to ſell their Brother into Forreign ſlavery: when yet his innocent Age was capable to form no other ſhadow of Inenmity, then this their envious jealouſie.*

The other Baiſe whereon the Authority of a Law may be judg'd firmly conſtituted, is the Virtue or Power of the Inſtitutor.

That the reflexion of *Vertue* (how remote ſoever) hath ever had a powerful Influence over the Spirits of ſucceeding Ages, is altogether unqueſtionable, whereon perhaps was grounded this Cuſtom amongſt the Lacedemonians, *That, what Law or Advice was firſt propounded by a vicious Agitator, if approved of, ſome Perſon of an eminent Vertue was by the General Council immediately required to pronounce the ſame, leſt ſuch a motion ſhould want that Grace and Dignity, was requiſite to lend Authority to the Eſtabliſhment thereof.* But that the Inſtitutions publiſhed by perſon or Aſſembly ſo exactly qualified, form'd from no other Object then the particular Occurrence of thoſe Times, ſhould totally ſo o're-ſway the Judgement of ſucceeding Miniſters, as to admit of them for unalterable Poſitions, beyond the confirmation of their own Diſcourſe, is but a ſervile

Impo-

Impoſition repugnant to the purpoſe and propriety of a Law. *Malum eſt Concilium quod mutari non poteſt. Evil is that advice which cannot be changed.*

Power (ſimply poſited) though it may ſeem at firſt Inſpection to claim a high and more legitimate Title to this Prerogative, as the affected Iſſue of ſuch eminence, yet when we more exactly ſearch into the ſecret nature thereof, in Relation to this Attribute, we ſhall ſo far diſſent to ſubſcribe to her Intereſt herein, we altogether ſhall ſuſpect her very appearance in the managing of a Legiſlative Tranſaction: inſomuch as the diſcuſſions of an imperturbed Reaſon are ſoly requiſite to the due Conſtitution of a perfect Law, whoſe iſſue circumſcrib'd but by the meer Parado of a force is oftentimes obſtructed, if totally not ſubverted. Violence, though ne're ſo fairly poliſhed, bears but the exteriour ſemblance of a wrong: nor is it proper, that what intruding in our private Agitations, may legally diſpence us from the *civil* Ties of our own Act, ſhould be admitted to the Introduction of a common Ordinance. A due ordered force may, and muſt, of neceſſity, be the ſubordinate Miniſter to the Execution of the Laws, but not a preſident o're the Conſultations thereof. The order of our Argument, circumſpectly traced, will lead us to a conſequent without a propoſition; which is, that the moſt plauſible and unqueſtionable Authority of a Law is that, *Which is formed from the free agitation of the moſt prudent and faithful Miniſters, and eſtabliſhed by the unanimous Concurrence of the people.* According to this Method was even the Law of God publiſhed by *Moſes*, and by *Joſhua*, and confirmed by the aſſenting Multitude; And if that holy and powerful Sovereign would not exact an obedience from the work of his own hand (though tending only to their proper Benefit) without a Covenant, which could no otherwiſe be conſtituted, but by conſent of parties. How irregular and unwarrantable are their proceedings, who violently impoſe a ſevere Ordinance to the reducing of their equals into ſervilty (altogether to their prejudice) not only without their liking, but abſolutely contrary to the ſame. The primitive intention of a Law, is the good of the people, and how that ſhould conduce thereto, which ſhuns the teſt of common approbation, may certainly be term'd a Myſtery, but ſcarce receiveable in Equity.

Perhaps, may be objected, that hereto as the Natural, ſo the *Civil* Body is incident to Infirmities, that ſometime may deprive it of capacity to reliſh their own Common Aliment, much leſs to leave it Faculty to diſtinguiſh of Artificial Remedies; which reaching not their Judgments, do often not affect their will. This being granted yet (of neceſſity) to apply the means to rectifie

rectifie such disorder, the will must be prepar'd, or prepossest; convinc't with Reason, or intic't with Art: otherwise an open and repugnant violence will but exalt the Distemper, and so instead of repairing, or reforming, totally subvert the constitution of a *Civil* Frame. Such dexterity may palpably be observ'd in the common practices of the most prudent Legislators, on such exigents, electing proper seasons, and peculiar Accidents, profitably to insinuate their purposes, where Reason was not prevalent enough to form their introduction. 'Tis probable the penible and dangerous enterprize of the Jews through the Desart was design'd by Divine Providence, to reduce their unruly stubbornness to a more docile Temper, by such apparantly destructive straits, more facily to introduce that sacred Law, was to be tendered unto their subscription: which yoke would ne're have been accepted of, in the fruition of the promis'd Land, the irregular motions of their will transported to a higher strain by the Allurements of licentious Plenty.

XXI. *The Equality of the Laws.*

FRom this Attribute the very Law it self seeming to form her proper Nature, it may be judged altogether impertinent to lend thereto farther Distinction: yet when we shall consider, that every perfect Ordinance must (of necessity) have reference not only to the *Offence*, but to the *Delinquent*; and the *Injured* it will be very material to weigh the due Conformity, a Law should hold with either.

The true Analogy of a Law in Relation to the *Trespass*, be it either Omissive or Commissive, Publick, or Private, is an equal Reparation; on which Parallel was raised the severe Injunction of the *Mosaical* Law, *An Eye for an Eye, and a Tooth for a Tooth.* On the decision of this due proportion, Justice in her Figure seems altogether intentive, in the firm Posure of her hand to the exact Poisure of her Ballance. Laws in their appearance may sometime extend their weight beyond the Nature of the Crime, tending especially to the publick use, by such severity to restrain the rashness of Licentious Attempters: but in their execution should secretly provide a charm to allay the fury thereof, lest that the *Civil* frame should thereby else be weakned or Impoverished. Those Ornaments will ill become the Majesty of a State, are become purple in her proper Gore; nor is it consonant to the Dignity of a Law, to form a Commerce for Delinquency: As there are rewards for publick Offices, without the expence of the common Treasure: so there are Penalties for publick Damages, subvert not Interests of a pri-

vate

vate Family. Which ne'retheleſs muſt with a nice diſcretion ſtill be managed: a danger to the State may equally enſue the Remiſſneſs, as the ſtrictneſs of a Law. In diſpencing yet of private Rights, the Law (without Impeachment) more firmly may adhere unto the litteral ſence thereof: Inſomuch as the publick Miniſtry is therein ſeemingly not much concern'd, but more remotely intereſſed, taketh away the Jealouſie of a partial Procedure. Edicts erected only for the publick Intereſt, ſeldom have other objects then the Obedience of the Members of the *Civil* Body; whoſe infringement may therefore be plauſibly repaired in a due Submiſſion. Decrees enacted to the ſupport of private Intereſts, have ſeldom other Object then the Deciſion of Right, whoſe infringement ſeems properly repaired in a feiſable reſtitution; yet ſince the violation of a private right is ſeldome perpetrated without indignity to the publick *Miniſtry*, in Contempt or Diſorder, a ſubmiſſive Penalty (of right) is thereto alſo, ev'n therein, to be conſtituted, the better to ſupport the Majeſty thereof; provided it may not be ſo conſiderable, to lend her the ſuſpition of a Party in the Tranſaction.

According to this Diſtinction (in reference to the Deciſion of Private Rights) were *Moſes* Inſtitutions parallel'd: as in matters of Felony, *He ſhall reſtore it double, and if he be worth nothing, he ſhall be ſold for his Theft.*

The Goſpel Inſtitution is, that *He ſhall ſteal no more, but rather labour with his hands that he may be helpful to others.* Which queſtionleſs implicitly muſt thereby firſt infer a reparation to the Injured. Yet ſince all private dammage is inherently oppoſed in a common Conſequence to the publick Intereſt, if we ſhall farther conſider this crime as a breach of publick Commerce; the equilibriate thereof may ſeem to reach no vaſter Latitude, then publick Infamy. *This the Lacedemonian Cuſtom viſed at, as the due Penalty to the attainture of a Felony; which otherwiſe, not ſurprized in the manner, was held a plauſible enterprize; licenſed but to acuate the vigilance and Invention of the people, to the preſerving and improving of their Properties.* Which Practice, (though not approvable in the uſe, that Virtue paſſing of neceſſity for ſuſpected, which holdeth but a ſhadow of dependance with the Miniſtry of Vice: yet may we from the former preſidents (to the reſtraint of this Crime) form a mixt Method of our Punity, as more equivolently proportioned unto the nature of the Offence; compos'd of Reſtitution, and of Infamy: And although the latter may perhaps not meet with that Efficacy in our vulgar people, with whom this Crime moſt frequent is in practice; as it hath formerly incountred in the more elevated ſpirits of the Lacedemonian State, where the Impreſſions of Shame were ſo ſenſibly ingrav'd in their Apprehenſions

henſions from their very Infancy, *That a Boy having ſtole a Fox Cub, which cloſely he had covered with his Coat (jealous to be ſurprized in the manner) ſo much reſtrained the Emotions of Frail Nature in his tender years, as the very ſhadows thereof fell not under the Diſtinction of another ſenſe, until the ſtrugling Rape had made a paſſage through the very Bowels of the Attempter:* but when ſuch Infamy is paſſed with a general Incapacity of publick Truſt, their proper Intereſts will enforce them to reſent it with more horror. To which, may probably be the cauſe, in reference to the infringement of the publick intereſt, in ſuch Treſpaſſes, our Laws do yet exact the Attainture of the Felons Goods.

2. In perſuit of the Order of our Subject we next aſſume the ſecond conſequent involved in the Conſtitution of a perfect Ordinance. *The Delinquent*, which although ſeeming totally concerned in the regulation of the Penalty to the Nature of the *Offence*: and in poſition of a Fact implicitely therewith included as one common Individual: yet ſince the Rules of Nature, as well as Policy, have lent peculiar Diſtinctions to ſeveral Members of a Community (not falling all under one and the ſame meaſure of Capacity, and therewithal, as ſpecial Graces to their Dignities or Infirmities, inherent Priviledges; it will be requiſite to weigh how far ſuch Freedom may conſiſt with the integrity of a perfect Ordinance. Omitting to diſcuſs on the Prerogative of Princes, as being a Subject of too vaſt a Latitude to be a branch of a peculiar Treatiſe, as alſo that they ſeldom agitate, but by their ſubſtitutes, who falling under the ſubjection of a Law, are not alwayes ſecluded from the common courſe thereof; or if ſometime they be, it ſeldom under ſhelter is of the Authority of a Law, of whoſe equality we only are in ſearch. We will proceed to agitate on the ſubſequents ſequeſtered either in Goods or Perſon, from the attainture of a publick Ordinance, by Virtue of their eminence, under three Principles, *Peer*, *Prieſt*, and *Publick Miniſter*.

The *Peer* pretendeth for the ground of his Priviledge in relation to his Perſon, the neceſſity of his Attendance on the Prince, as the eſſential Luſtre to his Majeſty, in Reference to his Goods, the vaſt expence which follows this his Aſſiduity.

To which we may Object, that the Luſtre of a Princes Majeſty conſiſts not altogether in ſuch titular Diſtinctions; but in the Virtue, Integrity, Wiſdom, Gravity and Civil Reverence of his Miniſtry, which were yet more illuſtrated in the diſclaiming ſuch a Priviledge.

The *Prieſt* in right of the protection of his Perſon, pleads the Dignity of his Function, as not ſubordinate to the *Civil*

Mini-

Ministry. For dispensation to his Property: the sanctified use thereof divided in the Inherence from the *politick* Body. This claim hath formerly been the subject of many violent and some tragick Contestations, licensing the appeal of Prelates to Ecclesiastical Conclaves in matters of *Civil* Jurisdiction: but since this usage is at present of no force with us: we will not much insist on the Discussion: only thus much we may thereon infer, that if in honor of their Function there should be this peculiar Reverence due unto their Person, or Reservation to their Properties, it equitably must be under this Distinction; so long as they contain the Action of their Lives within the Limits of that Holy Exercise, and their Possessions thereto only Relative.

The Publick *Minister* may seem to lay a more legitimate Title to such Priviledge; insomuch, as of necessity, his Person is to be secluded (in a manner) from the *Civil* Frame, to give attendance soly in the most material Interests thereof: In which Agitation the Faculties of his minde are wholly so ingrost, conveniently they cannot be relaxt, or yet diverted by a useful reflection on his own: yet in respect that such immunity may seem to question the integrity of the transactions of his private Commerce: whose Life should so far be from all suspicion of Reproach, that it should be exactly exemplary. His Institution will be more agreeable and Injunctions valuable in their apprehensions, to whose advantage he is design'd to Agitate, if therein equally concerned with the rest. Nor can it be of use to him, so to be sheltred from the Issue of the Law, whose proper Dignity speaks him a Law unto himself, it being an unequal suffrage that lends Authority to any man to *agitate of Common Rights*, who violates the Image thereof in his private Dealings.

The Subjects secluded from the common course of Laws, in favour of their Incapacity, have a more rational claim to such Priviledge, As a Wife, Children, and Servants, whose persons in some cases are dispenced from the Penalty of publick Disobedience; as subordinate Members to a more distinct Head, who only is responsable to the publick for their Miscarriages, freed from the ingagements of their private Contracts, insomuch as their Dependance is upon anothers Property, in their possession only but in Trust. Lunaticks and Ideots yet justly reach a vaster Latitude of exclusion in their Acts (wholly divided from the *Civil* Frame) wanting the Faculty to distinguish them.

The third and last Collateral implied in the Letter of an ex act Ordinance, is the *Injured*, of whom most penal Statutes hold but small account, regarding more perhaps the Consequence of a publick Disturbance, then of a private Inconvenience.

nience: To which Model the former Inſtitution of *Moſes* ſeems altogether faſhioned, *An Eye for an Eye, and a Tooth for a Tooth.* This Law, though equal to the Treſpaſs, and ſevere to the Treſpaſſer, yet the ſence thereof explicitely not ſeems to bear the fulleſt extent of a perfect Ordinance, inſomuch as the chief Relative is not concern'd in the Contents thereof; regard herein being only had unto the Offence, and Offender, *An Eye for an Eye, and a Tooth for a Tooth.* What Reparation hath the *Injured* hereby, except that Eye or Tooth, which is the Penalty of the Offence, could be reſtored ſo to the defective Part, that Nature might aſſume the Exerciſe of her Faculty: But in matters of Treſpaſs where there was a more feiſable Reſtitution, *The injured had a double Reparation.*

The common neglect of this Rule in Right hath rendered the perſuit of Juſtice irkſome, in that her acceſs is more penible, then is her Iſſue ſatisfactory: ſo that moſt men (unleſs poſſeſſed with an inveterate Fury of Revenge) had rather (to the encouragement of Oppreſſion) ſuffer ſilently, then for a ſmall advantage procure unto themſelves a weightier Injury, or elſe (to the Diſturbance of the publick Peace) provok't, are thereby to become unequal Repairers of their private wrongs. Which notion, that we may form more clearly to our obvious *Miniſter*: We for a cloſure to the Agitation of our preſent Subject, may gather from a clear perpenſation of our Argument, *That a Law compos'd exactly equal, muſt hold a juſt proportion with the Nature of the offence, in reference both to the Publick and the Private Intereſt, extending the tenure of the Impoſition univerſally to every Civil Member of Capacity, with full and facile ſatisfaction to the Injured.*

XXII. *The Knowledge of the Laws.*

THis Coherent is ſo eſſential a Conſequent to the juſt impoſition of a Law, that therein is compleated the true demenſion of her proper Nature, *Without the Light of the Law* (ſayes the Apoſtle) *I had not diſtinguiſhed the Offence.* And how that offence is not diſtinguiſhable, ſhould juſtly fall under the conformity of a Law, is a Myſtery not fully cleared in Divinity, Whoſe Rights (perhaps extend unto a vaſter Latitude then Civil Ties can fairly figure a pretence unto. The end of the Law is the union of the people, whereto ſuch regulation is the band: which band can frame no firm Conjuncture, unleſs the Virtue thereof equally be diſpenc't to every part. This alſo ſeems implicitly inferred on the firſt warrantable Inſtitution thereof, in the aſſent to the Reception: if we allow a rational Faculty to them therein concern'd, under which Attribute

bute, no one approving that, whereof he is not totally inform'd, to which theſe contingents following are moſt materially effectual, *That the Law in Letter and Sence be generally intelligible; Conciſe in the Compoſure. And univerſally imparted in the Publication.*

Under the intimation of the Letter is compriſed the Figure or Orthography thereof, and the diſtinction of the Tongue. The one may in propriety ſeem to have an unalterable relation to the other: which are proper to the compoſure of a Law, That every one may diſtinguiſh what he is to obſerve.

Perhaps hereto may be alledg'd, that the Myſterie of Civil Rights may as plauſibly be reſtrained from the conception of the Vulgar, to the advantage of their Temporal Welfare, as thoſe are of Divine, to the advancement of their Spiritual; ſince they both meet in one Intention in the Reſtriction, which is to avoid the Damage, may enſue the ſiniſter expoſition of the Ignorant: It being a general frailty co-incident to humane Nature, o're partially to rely on the ſufficiency of his affected faculty, and had rather run the hazzard, may follow his Infirmity, then to betray his weakneſs in his doubts.

Omitting to diſcuſs whether the Propoſition be receivable, either in the Nature or Compariſon thereof: the *latter* with us being totally rejected, and the former (as poſited) not without Reaſon much to be ſuſpected, ſince Reaſon (whereof all men have ſome Capacity) ought to be the common Rule to every perfect Ordinance in a *Civil* Juriſdiction: but in the Agitation of Spiritual Principles, Reaſon (as meerly humane or vulgar, reaching no higher Object then the Senſe) may in Reaſon ſeem to be excluded: allowing yet for granted, that both in *Civil* and *Divine* Tranſactions, as well as *Phyſical*, it ſafer is for the Practitioner utterly to be Ignorant of the courſe thereof, and ſoly to rely on the due Information of another, then knowing little proſecute the Direction only of his ſlight inſpection to his proper prejudice: Yet neverthleſs to the exact ſolution of our doubts, as well in *Civil* and *Divine*, as *Natural* Subjects, a certain meaſure of knowledge, muſt therein, of neceſſity precede, not only to form an Apprehenſion of an error in our ſelves, but alſo properly and uſefully to figure ours unto anothers apprehenſion; elſe in the obſcurity of our Demands, the moſt material circumſtance (through Ignorance) not inſerted, Authentick Inſtructions will but poſſeſs us with more confident Aſſurance, yet raſhlier to intrude our ſelves into more error.

The next Subject in courſe to be inſiſted on, is the *Sence* implyed in the *Tongue* and *Letter* of the *Law*, that which ſhould be perſpicuous to every ones capacity therein concern'd, is ſo eſſential a dependent on what we have concluded in their diſcuſ-

ſions, that they all ſeem but to form one and the ſame conſequence united or divided, only to this doth properly belong more weight, ſince the obſcurity *Hereof* may even to the Maſter of the Myſtery, not ſeldom figure an Ambiguity, which often ſubject to corruption, may fruſtrate the intention of the perfect ſt Law, under the ſhadow of *Her* own Authority: and ſo not only ſhelter the Practices of fraudulent Miniſters under Her Warrant, but make Her ſacred Image a common Proſtitute to each ſiniſter end. On which to enlarge ſince we perhaps may in the enſuing ſection meet an apter Subject. We will deſiſt here farther to perſue.

Furthermore the *knowledge* of the Law being admitted neceſſary to the due obſervation thereof, It will alſo be thereto requiſite, that *Brevity and Uniformity* in Structure, accompany the Perſpecuity of the *Letter*, *Tongue*, and *Sence*; in that the Soul (while cloſed in our frail Inveſture) muſt uſe an Object not alwayes preſent to form the Intellect, elſe Inanimadvertance will often meet in one and the ſame conſequence with ignorance: As alſo, in reſpect that moſt mens occupations will not admit of ſo much vacancy as to peruſe volum'nous or Introgate Inſertions: according to which model was compoſed the ſacred *Law*, inſcribed by the hand of our Creator: In number only ten, in order admirably regular. Inferring firſt the unqueſtionable Authority *thereof* in the preface. Then dividing the nature *thereof* into ſeveral Objects, Divine and Humane. The moſt material Injunctions preceding the leſs conſequent. And to every one whoſe weight was not ſufficiently implyed in their Nature, annexing Reaſons to diſcloſe their ground, which nevertheleſs was by the Holy *Inſtitutor* of the *Goſpel* contracted to a briefer and a plainer method, leſt Ignorance or Oblivion might in the infringement figure an excuſe to evade the penalty. Thoſe Indians (whoſe natural Rules of Government ſeem to excel, in Happineſs and Innocence, the moſt probable Pretences of the niceſt Models of imaginary Commonwealths, in that their Actions are ſo far removed from the actual Error of our Common Crimes, they know not tearms to intimate their Nature) have but two Principles to direct their Actions, *To be loving to their Wives*, *and valiant againſt their Enemies*: which daily are recited and illuſtrated by the moſt venerably Aged of the Family.

3. To the general concurrence of all which Poſitions muſt neceſſarily alſo follow the due publication of the Law, which lends to a Preſcription that high Attribute: the Law is elſe at higheſt Eſtimate but a concealed Light; the uſe whereof was figured to us in the firſt Publication of the ſacred Law, which was delivered in Thunder and Lightning: And the Inſtitution *thereof* after celebrated by a ſolemn Convocation of the united

multitude with sound of Trumpet, and the Contents engraved on their daily Vestures. The Antick Roman manner of Communicating their Edicts to the people, was to suspend them in a Table of Brass in every place of publick Intercourse.

XXIII. *The Insubversion of the Law.*

THE higheſt Dignity to a *Preſcription*, is the ſtability to *Her* Poſition; and the greateſt Grace unto *Her* Efficacy, is the Preſervation of *Her* Purity: *that* implyes the Baſe thereof to have been caſt upon a ſolid Conſultation, *this* intimates the Integrity of *Her* Miniſtry in a due Adminiſtration: not that in reference to the *firſt*, it is warrantable ſo far to rely on any humane ſufficiency, as not to ſearch into the nature of a Rule, which form'd to the occurrences of differing Times and Perſons, may ſometime plauſibly be reform'd, ſuſpended, or repeal'd, though ne're ſo perfect in their Conſtitution, as may appear, *In the Jews Diſpenſation with their Sabbath:* when on the advantage of their ceſſation therein from their Arms, their Enemies had almoſt extirpated the Nation: which infringement was afterward allowed warrantable by expoſition of the *Fulfiller* of the *Law*, either on neceſſity, according to *Davids* pattern, *In eating the Shew-Bread*: Or on the purſuit of a better work, in Reference to *His* own, *in healing on the Sabbath-day, the Sick.* But that ſuch a ſtability illuſtrates the eſſence of *Her* Nature, ſuffering more frequent and exacter Proofs of *Her* Perfection. In reverence whereof, repulſing the violation of all looſe Attempts. To which eſtabliſhment ſhould alſo joyn the endeavours of the Inſtitutors, leſt every wavering Motion of the giddy Multitude ſhould prejudice the Inſtitution. On this Intention, it is probable, *Were form'd irrevocable the Decrees of the Medes and Perſians.* Or in regard of the *latter*, that it is poſſible to preſerve from Corruption, any Precept (though ne're ſo natural) which falls but under uſage of our frail *Society*. But that an exact *Ordinance* ſhould either be inveſted in *Her* proper Conſtitution with ſuch influence, might keep Her Obſervation regular, or there to borrow vigour from ſome collateral, without the penible vigilance of the Inſtitutors o're the Tranſactions of their ſubſtitutes. In purſuit therefore of the premiſes, it will be requiſite the *Law* ſhould make Proviſion againſt theſe Particulars. 1. *Their open Violation.* 2. *The obſcurity of their ſence.* 3. *The Repugnance of their Nature.* 4. *The Fraudulence of their Miniſtry.* 5. And *the Cuſtom or uſage of their Courts.*

1. The Vigour of the *Laws* extending not beyond the Precincts of their Juriſdiction, implyes the *Object* of their ſafe-

guard

guard from *open Violence*, formed in their Nature, can only be *Inteſtine*. The moſt frequent and viſible ſources of *Civil* Inſurrections, which in their material conſequences may reach at the ſubverſion of the *Civil* Frame, are either *Private Broils*, or *Publick Diſcontents*. The firſt is verified in the Conteſtations betwixt *Sylla* and *Marius*, *Cæſar*, and *Pompey*. And although ſuch Debates ſeem rather in their Iſſues, to ſtrike at the Foundation of the Government, then Conſtitution of the *Laws*, yet are theſe ſo nigh Relatives, the one can ſeldom be ſupplanted without ſubverſion of the other: as appears by *Cæſars* reply, when ſeiſing on the Common Treaſure, was objected to Him, the Legal Inhibition to ſuch violence, *What do you inſtance Laws to us, who wear Swords by our ſides?* The mannagers of ſucceſsful Arms are oftentimes tranſported with ſuch inaccoſtable, and irreſiſtable Preſumption, allured thereto by their flattering fortunes, or compell'd by the exigence of indirect Engagements. That the progreſs of their Actions is ſo far removed from the reſtraint of any Legal Preſcription, they ſeldom are contain'd within the bounds of their own publick Manifeſts, or yet the ſecret Motives of their firſt Intentions, witneſs *Bullingbrook's* Proceeding *on the Infringement of the Decree of his preſcribed Exile, on pretence only, but to be inveſted in his Fathers Dignity and Eſtate: but he perceiving the fluent concourſe of the people to Him to advance his purpoſe, became thereby ſo much encouraged to higher enterpriſes, he could not be reſtrain'd by any Tyes, Civil, Divine*, or *Natural, until he had ſupplanted his abandon'd Soveraign*. The ground of this his Exile therein confirming juſt, which before was ſo only in ſuſpicion: in which reſpect it will be requiſite, that ſuch *Decrees*, whoſe Inſtitution have this *Object*, be indued with ſufficient vigour to ſmother ſuch emotions in their Infancy, timely reconciling, or impartially expelling both Enemies and Emulators from the publick *Miniſtry*, leſt, under ſufferage, longer times ſhould form a Faction not ſubject to the regulation of ſo ſlight a faculty.

Publick Diſcontents gather more ſlowly and imperceptably to a head, but are more violent and ſudden in eruption; and ſeeming more plauſibly commenced, become more licentiouſly proſecuted, being pre-poſſeſt with Indignation, both againſt *Miniſters* and *Miniſtry*, inconſiderately without diſtinction, totally reverſe the Inſtitution of either, *As may be inſtanc't in the proceeding of thoſe Tribes revolted from the Government of* Rehoboam, *with him forſaking both the Temple and the ſacred Ordinances.*

The obſcurity of the ſence, wherein an Ordinance is expreſſed, may ſometime meet with ſuch an Ambiguity, that either in ſuſpence, or expoſition, may utterly ſubvert the intention of a *Law.*

Law. Words (in the most proper usage taken) can figure but a shallow and an abstruse Character of the minde: so that the best digested method of delivery may probably (in the first Purity) through ignorance or malice, unadvisedly or intentionally be prevaricated, more probably not stand so many Ages uncorrupted, as would require a perfect *Ordinance.* The words *thereof* in time, not only growing out of use, but also the proper Emphasis of the *Tongue*: from whence perhaps are sprung so many Controversies in Courts of Judicature, and Schools, as hath made that Law and Learning was first useful and venerable, now become noxious and ridiculous; so that he is now accounted as insufficient an advocate, that cannot make a bad Cause good, by his *Schicanrie*, as he an illiterate Schollar, that cannot so disguise a fallacy, as to make it appear true by his Sophistry, with how much damage to the people, and indignity to the Majesty of a *Law.* Such slights are sheltered under the abstruseness of the *sense thereof*, we leave every one to judge, believe, or Prove.

Perhaps hereto may be objected, that the Nature of the *Law* so frequent is in use, the Virtue *thereof* cannot be conceal'd, but daily is revived by some occular Proof.

Omitting to insert the hazzard of a *Light* educ't from such Collation, in that the circumstances rarely meet in a conformity, we farther may reply, that even in revolution of many Ages some *Laws* meet not with any accident so fully toucheth every clause therein, as might render the issue fully clear: nor also any clause contain'd in every Law, doth clearly answer every accident, may possibly fall under the proper object of the same, as may appear in *Moses Appeal to the Almighty, for the decision of the claim of* Zealophehad's *Daughter in the common partage of the promis'd Land:* In which regard, few *Laws* can be produc't, are so exactly constituted, that will not often want enlargement or enlightning.

Laws in repugnance of their Nature tend yet more visibly to the subversion of *their* Institution; the which at first inspection may perhaps appear so gross an absurdity, as is hardly credited to be feisable in the deliberate result of a rational consultation. Yet when we shall more strictly search into the constitution of their parts, in reference to *their* proper use and ends, we shall finde, that not only in respect of one another, Laws often meet this Impropriety. But also (in relation to *their* proper purposes) prove sometime contradictive to themselves.

Laws In their Dispensation pass through many hands and therein oft more subject are to alteration of their true *Intent*, unless the course thereof be strictly and severely visited.

XXIV. *The timely Iſſue of the Law.*

IF the *Law* were exactly compiled to the precedent ſtructure, or according to what other Attributes imaginable, more properly might conduce to her perfection, yet if the Iſſue were not ſeaſonable, the Inſtitution ſcarcely could be uſeful. If the grace of a private Benefit conſiſt in a ſeaſonable contribution, the glory of a publick Ordinance muſt be raiſed on a timely Execution, *The Importunities of the Widow might make perhaps at length Her Cauſe ſucceſsful:* But the Miniſtry of Her Judge was not crowned with the Merit of her ſuccour. All Courts of Judicature have their proper Capacity of Receit, and if thereto ſucceed not timely iſſues. Continued Affluence of Complaints will ſuddenly beget Obſtruction, Confuſion, or Corruption.

The common Obſtacles to the Progreſs of moſt *Laws*, after a ſuit commenced, are 1. *The licens't ſilence of the Agitators.* 2. *Appeals, or Removes.* 3. *Writs of Error.* 4. *Demurs.* 5. *Croſs Bills.*

How which ſhould in their uſe be regulated to remove all Impediments, which might obſtruct the timely Iſſue of the Laws, we ſoly ſhall remit unto the Vigilance, Inſpection, and Authority of their Inſtitutors, declining totally their formerly deſign'd enlightning in particulars (though to the viſible defacing of thoſe Ornaments, might perhaps more eſſentially have lent both uſe and luſtre to the contexture of our *Treatiſe*) as a *Civil* Preſumption not to be licens't by the moſt Licentious, leſt the miſpriſion of the procedure might poſſibly not only have blemiſhed the intention of the Agitation, in the Cenſure of the ſoundeſt Judgments; but under the incapacity of the vulgar, have utterly made void the object of our *Enterpriſe*, perverting to their Prejudice what only was deſigned to their Benefit.

XXV. *The eaſie Perſuit of the Law.*

WEre the Laws perfect in their Conſtitution, and timely in their Iſſue; yet to them their Ingreſs and Progreſs is inacceſſable, *their* Virtue cannot be communicable; ſo conſequently not generally uſeful, the proper object of a perfect Ordinance.

This *Subject* hath more peculiarly for Object the Impotent and the Indigent, in reference either to the remoteneſs of their Reſidence from the Courts of Judicature, or their diſability in ſubſtance.

To remove the firſt Difficulty from the perſuit of the *Law*,

two methods only are in practice, either to constitute several Courts of Judicature in several Shires, Counties, or Provinces, or from the Capital Courts of Judicature to communicate the Virtue of the Law (in vacant seasons) to the remotest Places of the Commonwealth by their peculiar Ministers prescribed Circuits. The former course, as now in use not fully reacheth the Propriety, insomuch as distinct Courts of Judicature so posited have still relation to the Capital Court, and can definitively determine nothing, their sentences receding by Appeals unto another Court: In which proceding the Subject suffers still more prejudice then attaineth ease. Our justicial Circuits more probably might meet a happier issue in the intention of their use.

To those that by reason of their indigence have not capacity to prosecute a Reparation to their grievances, most *Civil* Jurisdictions do provide redress under *Formâ Pauperis*, which questionless more fully meets the intention of the use, where distinct Courts have only reference to the Institution.

XXVI. *The Nature of a Law.*

ERe we had qualified our *Civil Ministry* with those essential Attributes, which might lend Ornament and use to *Her* Investure, it would have first been requisite to the exact simitry of our Structure, to have enlarged more peculiarly on the true Definition of her Nature: But finding no material Mystery therein, we have persu'd the Order of the Letter, In favour of the Propriety of our Tongue, prefiguring the shadow e're we disclose the subject, and here accordingly give place to *Her* Distinction.

A Law is a prescription, or a Rule impos'd by the Supream Authority of a Nation, on every Member of Capacity, within the Limits of the Civil Union, to restrain each mans Actions from the Prejudice, and guide them to the mutual Benefit of one another. So that we may positively affirm, as reason is seated in the natural Body for the direction of the active Members to their proper use, and *Ministry* to the rest: so the Law is constituted in the *Civil* Frame, as a due conduct to our private Rights, and common preservation; neither can there be any proper distinction in their Faculties, both issuing from one source, and directed to one end; only Nature in that, form'd *Her* Jurisdiction in a smaller continent; which Policy in this extended to a vaster Latitude. And what the *First* composed only to one, and for the benefit of one, the latter constituted to many, and for the advantage of many; from which consequence we may conclude, that as *Nature* proceedeth in the erecting

cting of a light to guide her *Miniſtry*. *Policy* muſt follow that viſible light to the direction of *Hers*. *Laws* totally diveſt their Nature of their proper Uſe, and Dignity, when they but ſwerve from Her Preſcription: A proof whereof we perfectly diſcover in the Conſtitution of thoſe Commonwealths, which live only according to the firſt purity of Nature, wherein thoſe common Crimes againſt which our *Laws* have formed their ſevereſt vigour, have not ſo much as Intimation in their *Letters*. To this the Apoſtle yields his evidence, affirming, *That ſome not knowing the Law, performed thoſe things contained in the Law, and were a Law unto themſelves*. Informed by that innate Light of Nature, Reaſon in her uncorrupted Purity, which ſecretly did prompt them, *To do unto others, as they would that others ſhould do unto them*. But when man fell from the Rules of Nature to live according to Art and Opinion, he wreſted *This* Light to their adulterate uſes, and guided *That* ſhould have directed him.

Farthermore, every perfect Ordinance extends It ſelf to the two foreſaid Objects, *The preſervation of a diſtinct Right*. And *The Advantage of a mutual Benefit*: as they are to be enfolded in one Rule, ſo they muſt not be divided in their *Miniſtry*. The juſt Intereſt of one muſt not ſo ſtrictly proceed, as to ſubvert the exiſtence of another: Such ſeverity would utterly pervert the Nature of a Law, rendring *Summum Jus, Summa Injuria, The utmoſt Right the higheſt Injury*. In which regard, perhaps the Inſtitutors of our *Law*, foreſeeing the difficulty to unite theſe Heads in one Preſcription, have divided them in their Natures, conſtituting diſtinct Courts to the peculiar *Miniſtry* of either, ſtyling the one, Law; the other *Equity*, *This* only form'd to moderate the Rigour of *That*. *Moſes* Moral Inſtitutions had in every particular an eſpecial regard in regulating the extreams of *Civil* Rights, *One man might take anothers Coat for Pledge, but was inhibited to retain it longer then till night*. Perhaps, leſt he not having other ſhelter to defend him from the Injury of that ſeaſon, might poſſibly thereby incurr the hazard of his Life. *In matters of private loan, all uſury was interdicted*: Prefiguring this courſe ſhould only be an aid unto neceſſity, no *Miniſter* to Lux or Avarice. And he that was reduc't to the extremity of borrowing only to ſupport his Life, could probably make no ſuch benefit thereof, as to return it with advantage, without impeaching farther the viſible means unto his Preſervation. *All contracts for Lands and Houſes* (in ſome caſes) *had their Period of Reſtitution, which was the enſuing Jubile*. In reſpect, that one mans unlimitted enlargement, how juſt ſoever in the Acquiſition, ſhould not reduce his joynt Aſſociate into indigence.

XXVII. *The several Objects of the* Law, *in Reference to the* Security *of the* Natural Union.

THE Life of man is the union of two differing Subjects, Matter, and Form: The improvement of whose Faculties (distinctly taken) may consequently have two several Objects, in reference to the said Division, *Natural*, and *Moral*. But since (joyntly taken) the one can seldom suffer an Impeachment, without a prejudice to the other. The Security of *Both* will meet in one Principle. The common Agents of the dissolution of this *union*, which sometime fall under the capacity of humane Remedy, are *Wilful Violence*, *Sickness*, *Want*; of which we will discuss in order.

XXVIII. *Wilful Violence.*

AS this *Subject* hath in regard of our Order, attained the preheminence of Position, so in Respect of her Nature, it requireth more eminence in Opposition: No Act can so much blemish the Dignity of a Civil Government as this (simply taken) in that it seemeth to usurp the Authority of the Civil Jurisdiction, in assuming an impartial satisfaction to the distempered will. The first Curse Man incurr'd, was for his Disobedience to his Creator, which in the Issue found an advantageous Cure; The second Curse befell Him, was for his *Violence* to his Brother, which Visibly ne're met an Absolution. God the immaculate Essence of Justice, herein seems jealous of the Rights peculiar to his sacred Ministry, reserving only to himself this high prerogative, *Vengeance is mine*. Nor can the *Law* (without a blemish to this Image It represents) resent the unjust encroachment on her Rights herein with less severity. But to discover the degrees of this exorbitance inherent to *Her* Nature, it will be requisite to visit *Her* effects in the Distinction either of the *Subject*, *Manner*, *Place*, or *Measure*.

The first *Subject* considerable, on whom a violence may be practised, is (according to the Rule of God and Nature) that which each man acts upon himself: The ground whereof is hardly evident to a moral sence, which only measures the regularity of the exteriour Actions, according to the damages sustained by another, prefiguring, without such Reference, each man might justly claim a priviledge in the disposure only of his own: in which regard perhaps the *Ethnicks* have assumed so much Glory from this Enterprise, hereby, as they conceiv'd, triumphing o're the Malice of their Fate, though peradventure

the Temerity might (more equitably according to their own Rules) merit the reproach of Lachety, then the applause of magnanimity, since so ignominious an Evasion, betrayes not only the abjectness of the minde, but the infirmity of Nature, as well in the Anticipation of an evil, by an irrational Apprehension, as in the distrust of our Faculties, to undergo the encounter. The exercise of Fortitude is opposition; not flight: But yet this Consequence, if assented to, will really not reach the Nature of this Crime: we therefore must make use of higher speculation to the Discovery. To ascend thereto, if we shall make the first step on the Base of Natures Rules, *This Act* will totally appear repugnant to her Order, *Chaque Chose fuit ce qui la destruit. Every thing doth flye that which would it destroy.* If it infringe the Institution of Nature then consequently the first and most general Decree, that ever was imposed by our Creator. If we look into the Letter of his Law, which may be thought more nighly to concern us. We shall finde the Intimation *hereof* infolded in a general Inhibition, *Not Kill.* If we shall yet search into the Nature of the *Fact*, by the Collation thereof to the preceding Actions of the Practisers, we must conclude, that it will seldom be found other, then the issue of an irregular Life: wherein the all-supporting Influence of our Creators Grace seems totally retracted, as may appear in the prodigious Lives of *Heliogabalus Caracala*, and others: In opposition whereof, if we shall reflect on the Actions of *Brutus*, and *Cassius*, we may affirm, That *Cæsars* Murther (how fairly soever polisht with pretence) so far eclipst the Beauty of their former Virtues, they cannot win (in an impartial Judgement) so much credit to lend their Lives or Ends so much distinction from the rest, as to give weight to an Objection. From sacred Record, with more Authority perhaps, to these may also be annexed *Saul*, only therein we meet with *Rhasis* example, whose unblemish'd life, and high approved end (though by himself advanc't) may cast some scruple on our Argument: yet since this faileth under the Relation of an obscure original, And under the Pattern of a transpotted Scale, we thereof not admit, as a fit subject to a farther discussion: only the life and end of *Cato Uticensis* may afford a Proof without exception, where no Displeasure sprung from his proper Interest, found the least motive in his Resolution: but since the Actions of his Life had more refin'd Resorts, then humane sence can probably disclose, soaring a pitch beyound the Practice of a Parallel: we will, in honour of the *Object* of his Passion, forbear to insist on the Conclusion.

Yet if we shall persue the inward trace of this Distemper more peculiarly, and pry more narrowly into the secret source thereof,

of, we questionless shall finde it evident, that from the preposterous Conjunction of repugnant Passions (Fear and Anger) issueth self-dislike. This misprision of the work, at length begetteth a contempt of the Artificer; which since it can reach no higher, presumptuously attempteth to destroy his Image, betraying in such disobedience, the trust which was imposed for her safeguard, anticipating the tearm of the surrender; *My dayes are in thy hand*, not in our own.

To which may probably be objected, that a man may sometime be reduced to that exigence, which probably may figure an authentick Summons.

In reply whereto we may alledge, that such extreams are not distinguishable to humane sence, the Power and Providence of our Protector being unlimitable in the Measure, and inscrutable in the Manner, *Snatching Daniel from the Jaws of the hungry Lion, and* Jonas *from the entrails of the Whale*. Nor is such Grace dispensed, rarely or in favour only of his Prophets: as may be instanc't in * a Grecian Captain's *Delivery by a Fox from out the Entrails of the Earth, for dead, by his Enemies cast in an Abiss, from whence no humane Art nor Industry could have withdrawn him by a timely succour.*

Having disclos'd the Nature of the Crime, we should proceed to figure the etc. a due penalty to the restraint thereof: But as a moral Inspection could not attain the Mystery of the Nature, so no moral Institution can reach the manner of the punishment; the Delinquent being hereby become impassable to *Her* Prescription, remaining nothing inherent to his peculiar Property, whereon the *Civil* Jurisdiction can equitably be satisfied, but his Carkass and his Memory.

The subject next material in reference to a violence is the Natural Parent, without distinction, and not without a valid consideration, there being not a more legitimate inherency to Rule, then that which is the immediate cause to our Production. And the more reverence owe we to *his* Dignity, in that our Creator descendeth to illustrate His Bounty to us, under *this* relation: In emulation whereof all Vertuous Princes have misprised the most glorious Titles, in Competition with *this* high Attribute. To this most just Preheminence followeth so strict an Injunction of Conformity, that the penalty of an Offence, shall violate this Right, but in a stubborn Refractory, or Indecent Opposition, was by the sacred Law pronounced, Death: *Who hath a rebellious Son, that will not obey the voice of his Father or Mother; nor be reform'd by their Correction, their Parents shall deliver him to the Civil Magistrate, who shall cause him to be stoned by the people.* From which consequence we may gather the Nature of that Crime by open or by secret practice, shall willingly attempt to reach at their destruction.

In

In constituting Laws to the Restraint hereof, most Legislators have (in the primitive texture of their *Civil* Frame) been altogether negligent, either concluding, that nature had in such Relation too powerful an influence in her Impressions, to want the aid of artificial Ministry, or else reflecting on the common frailty of our Nature, which took more violence from restraint, forbore to agitate on such a Crime, as jealous to awake the faculty of Malice in such Discussion: So silently for many years, past unexpresst, because unpractised, this *Fact* among the Romans, till time, which lends Maturity to our Corruption, produc't a Monster in her horrid Pattern, which then gave Light to this Infliction, *The Patracide was tyed close in a Sack, and cast into the Tyber.* A penalty perhaps by them esteem'd sufficiently severe, in that it figured not only a Division of the Soul from her frail Mansion, but an extinction. Yet e're we shall desist to agitate on our Subject, we farther will examine the Nature of this Crime, in Reference to the other Members of a Family.

Having discussed hereof in Relation to the Childrens Demeanour to their Parents, we may insist upon the Wifes unto the Husband; whom though the Mystical Ceremony hath united in one Body, *affirming them to be but one Flesh:* yet nevertheless since *Civil* Rules have lent a difference of Dignity in the Distinction of Parts, most proper to the Constitution of their union. The nature of the Trespass may possibly in Reference to the Husband meet a weightier Imputation, and a severer Punishment.

Servants have a more subordinate Dependence on the Head of a Family, having from them their Livelihood, in Consideration only of their due submission to his Will. In contempt or repugnance whereof, if their demeanour shall proceed to act a *Violence* on his Person. The Crime more properly may be qualified with such Distinction, and meet such Punishment. In persuit of our Order, should here ensue a like Discussion on that *Violence*, the Master of the Family should Act upon the Members. But since therein is found no legal Distinction in the Nature of the Act, from what is practised on other Members of the *Civil* Frame, more then the Infamy which justly followeth the Breaches of so nigh Relations. We will remit to treat thereof in our Reflection of the *Manner* and the *Measure* of a *Violence*.

To these succeeds in Eminence of Distinction (in Reference to a *Violence*) the *Magistrate* (under what degree soever being in Execution of his Ministry) in that, therein *he* fully seems invested with the *Civil* power, and consequenly the *Violence* so sustained, more highly ought to be resented by the Jurisdiction

to

to whom he doth officiate, as a contempt or Opposition to her Order: In which respect perhaps, this Fact (on Him) extending to a higher Consequence (then on the former Subjects) might justly claim precedence in our Order, to all those our preposited Distinctions, had not *Policy* succeeded unto Natures Order, both in her Pattern and Establishment. All other Persons of what Degree or Quality soever, Noble or Ignoble, Alien or Denison, in Reference to his Trespass fall in the Ballance of one common Estimate. The *manner* how this Trespass may be acted, well considered, will vary much the Nature of the Crime, lending there to more weight or less from whence the Penalty receives due Regulation. The common differences whereof may visibly be reduc't to these Distinctions; *Encounters*, *Duels*, *Surprises*, in the first Principle. The intention of the Agent (which soly lends material Consequence to the Fact) seems wholly disengaged. In the *Second*, the intent of both seems clearly pre-ingaged. In the *Third*, the intent of only one seems pre-possest.

If *Encounters* admit of a double Distinction, being such as are meerly *Casual*, having no farther motive then the present Accident or *Collateral*, having Relation to some former Difference; yet so as neither Time nor place were pre-advised of either: If pre-advised of Both (as oftentimes is practised, to shun the extream severity of the Law, disguising so the Action) then falls the Nature of this Trespass under the Distinction of a *Duel*. If but of one determined, the Fact may properly be tearmed a *Surprise*.

Casual Encounters, what e're the Issues thereof are, have the most specious pretence to plead for their Indulgence; in that the first motive of the incensed will is not oft-times within the absolute Command of the most regular minde, which herein but inform'd by unconsulted Appearance may facily seduce the Judgment to prosecute the sense: yet since no Imperfection how naturally soever inherent to our frail Condition (within the true Capacity of our *Civil Union*) can plead a priviledge to prejudice Another. Nor perfection (how supernaturally soever in any constituted) while yet a Member of this *Civil* Frame) can lend a just Authority to any, to be Repairer of their proper Damage; as appears in the example of our perfect'st Guide, In defence only of true Innocence. *Put up thy Sword, who taketh the Sword, shall perish with the Sword.* Nor can we, how justly soever commenced or prosecuted, exempt such Procedure from the Nature of a Trespass: yet under this Limitation, such only to the Publick. The private therein totally excluded, insomuch as the Nature of the strife implyes an equal Opposition, if not in Power, in Will, and self-opinion of Sufficiency, where-

in if he be foil'd, he juſtly payes the forfeit to his own Preſumption, who elſe declining the attempt, might legally have perſu'd the Advantage of his Injury, without conteſting for an equal ſatisfaction.

To which may poſſibly be alledg'd, that the *firſt*, moſt *juſt* and impulſive Law of Nature prompts every living Creature, (for their proper ſafety) to riſe in Oppoſition in their own Defence. Nor is he half ſecur'd that relies only on the paſſive Part.

In anſwer to the objection we reply, the Law requireth but a viſible declining from the Action, to acquit him of the event thereon enſues: To which, although perhaps *It* ſeems to have preſcrib'd too vaſt a Latitude, as *to retreat until he can Retire no farther:* in which he probably may be ſlain e're he attains thoſe Bounds. Yet other Circumſtances that may reach the Intention of the Law therein, in Reaſon may acquit him unleſs the Interpoſing judge preſume too much on his Authority to tye his Cenſure ſoly to the ſtrictneſs of the *Letter*.

The treſpaſs may hereon enſue unto the publick, is either in Reſpect of the Common Diſturbance, *Breach of Peace*; or in Regard of the loſs of a *Subject*, *Man-ſlaughter*. To *that* our Law hath equitably impoſed Impriſonment or Fine. To this a total forfeiture of their *Goods*. Yet more effectually to the reſtraint hereof might poſſibly ſucceed the Influence of ſeverer Laws, directed to ſuppreſs ſuch Incivilities, as commonly are the Ground to ſuch Diſorders, in which moſt Civil Juriſdictions ſeem totally defective.

Collateral Encounters, by our Laws, are not diſtinguiſhable from poſitive *Duels*, though herein Time or Place concur not with the motive in the Intention. In that the Reference of a former Breach prefigures a Deſign to perſue the event to which Occaſion then adminiſters, remaining ſtill an unremitting Contiguity betwixt the efficient and the effect. Yet when we ſhall reflect on the Infirmity of humane Nature, which in the perfect'ſt Temper not alwayes is provided with ſufficient Aids to check the ſuddain Motives of the Senſe; but having often paſſively ſuſtained the Indignity of the extreameſt out-rages, may ſometime be provok't to yield unto a leſs, the Spirits pre-diſpoſed inſenſibly attracting the Flame, was formerly to them familiar, leaving no intermiſſion for Diſcourſe to agitate on Reſtraint of the tranſported will: as alſo frequency in Injury may poſſibly proceed to an irreſiſtable Importunity: And in an Inſolent Solicitation, exact that our will aſſents not to, *Potentia mutata ſit furor. Intenſed Patience becoming fury.* Farthermore the Ceſſation, Interruption, or Reſtraint of the firſt motive probably may prefigure a declining from the Proſecution: ſo that

from

from a clear Perpensation of our Argument, may really be collected so visible a difference between this manner of strife, and pre-designed Conflicts, as may equitably lend a more moderate Distinction to the Penalty.

Duels may properly be extended unto these Distinctions, *Extrajusticial*, *Justicial*, and *Private*.

Extrajusticial Duels are such as are Authorized by mutual Assent of two hostile Nations for preheminence in Honour, for the Decision of pretended Rights, to avoid in future, the effusion of more Blood, and other general Calamities too incident to War, though otherwayes successful: so were declined the Divisions between the *Israelites* and the *Philistians* by *David* and *Goliah*. So concluded the Contestation between the Romans and the Albans: by the *Horatii*, and the *Curatii*: Although the latter manner of Conflict may seem rather to approach the Nature of a *Skirmidge* then a *Duel*; which taken in the strictest sence, implyeth only single oppositions. These manner of Conflicts are so far-removed from the subordinate suppression of a *Civil* Jurisdiction. That they are only grounded on support of the due Interest *thereof*. And from It rather merit (what e're the issues be) an eternal Monument of Glory, then a scrupulous Check. Insomuch as the Agitator totally abandoneth his proper Interest, in Favour of the publick Benefit. Other Military *Combats* of this Nature, having no Reference to the former Object, are but foments to vanity, and utterly destructive to the order of the Warlike Frame.

Justicial Duels, with us now out of use, have left but an obscure Original both to their Nature and their Institution; yet probable it is, the chief ground of their sufferance, was only in discovery of the Truth, where evidence sufficient was not visible, either in Decision of private Rights, or publick Impeachments. A Custom only form'd to supply the Intention of defective Laws, amongst scarce civiliz'd Nations; whose superstitious Souls more awfully were guided by event (* which visibly were often fallible) then the Light of Nature. And though this usage (holding Affinity with the Nature of a Law) may seem to borrow some Authority from sacred Practices; As *in Discovery of the Babylonian Vesture*. And *in Inquisition of the Breach of Sauls vow'd Fast*. Yet here the procedure hath only Reference to Divine Trespasses, which passing without *Civil* Punity, the whole *Society* sunck under Burden of the Guilt till It was expiated, which could no otherwise be done, but by disclosure of the Criminel, whose hand best found that was thereby offended. But in discussion of our *Civil* Rights which reach no higher ground then humane Reason. Man must thereof acknowledge his just forfeiture, that shall conclude without It, tempt-

Lactant. de Ira Dei.

* Stovæi *An.* 25. H. 8. *Liv ab. v. c. lib.* 28

tempting the Almighty to educe a Miracle to determine that, which he had granted means to attain unto.

Private Duels, taken in the ſtricteſt ſence, are only ſingle Combats, in Weapon time and place determinable, ſprung from no other ground then ſence of Injury, nor proſecute other object then Revenge, though Both oft-times ſeem meaſur'd by the reſentment of ſome others, more then by our own: Vanity the litigious pretender to Honour, muſt court her looſer Mother (vulgar Opinion) to attain his Proſtitute. A ridiculous Motive to an arrogant Aſſumption, pretending both to Right and Power to arbitrate and to Execute in our proper Intereſts, in Contempt or Miſpriſion of the *Civil* Juriſdiction: ſo that we may conclude, according to the Event, the Treſpaſs is from Others of this Nature, but diſtinguiſhable in an offentive Attribute, whether the extent hereof may poſſibly reach the Nature of a Murder, perhaps in *Civil* Rules, may be diſputable. In that the Intent, which ſoly is effectual to qualifie the Fact with ſuch Diſtinction, ſeems fully prepoſſeſt to uſe the uttermoſt Ability to take away anothers Life: yet, in Reſpect, the perſuit is with equal hazzard of our own, meeting like purpoſe in the Oppoſition, ſuch Attribute *Hereto* too ſtrictly ſeems implyed, though not by Law for ſuch too ſtrictly puniſhed: Firſt, inſomuch, as in ſuch Procedure, the injured ſeems to uſurp the Authority of the *Civil* Juriſdiction, in perſuit of his own unequal ſatisfaction, as alſo, in that the Tragick Iſſues of ſuch Conflicts often do engage ſucceeding Families, to their Inemnities thereon ſprung, in like Oppoſitions. Furthermore, in that ſuch Action paſſing with Impunity, may ſeem (i'th vulgar Voice) to conſtitute that Glory on a Crime, which ſoly ſhould be proper to a vertuous Enterpriſe.

One Controverſie, inherent to our *Subject*, yet reſts undiſcuſt, whether the *Seconds* (acting no farther then to ſecure the *Principles* from indirect Advantages, or treacherous practiſes may equitably be attainted by the Law, as Accezoir, or Complice to the Fact. In ſolution whereof, we may reply, That ſince the *Seconds* were privy to the Intention of the Principles, which they had power to fruſtrate by Information of the *Civil* Magiſtrate, they, as Collaterals, may be accounted guilty of the event, in favouring ſo their purpoſes.

3. *Surpriſes* (to moderate or extend their Nature) may be indu'd with theſe Diſtinctions, *Eſſential*, *Definitive*, or *Relative*. *Eſſential Surpriſes* are ſuch, as e're they are educed into Act, are formed pre-adviſedly in the intention of the Agent, beyond the Notion of his Adverſary; ſo that we properly may tearm the Fact a treacherous Aſſault, with Weapon undiſtinguiſhable, be it Sword, Fire, or Poyſon. This is, without con-

contradiction, the higheſt and moſt damagable kinde of *Violence*, inſomuch, as it leaveth none the ſmalleſt ſhadow of a viſible ſecurity. The ſtrongeſt hereby *becomes deprived of his* ſtrength, and the warieſt of his Caution. Nor can the undertaking meet a Cauſe, or Circumſtance, might mittigate the Nature of the Crime. Amaſa's *open Hoſtility with* Joab, *could not render the Fact pardonable in his Judgement, for whoſe Intereſt and Advantage it was finiſhed.* Nor can *Parmenio*'s Treaſon, the *Guiſes* Indirect Ambition, or *D' Ancre's* Inſolence excuſe thoſe Princes, who to avoid the caſualty of their redoubted Power, have ſecretly, and indirectly ſo contriv'd their Ruine: The courſe of Juſtice either muſt be proſecuted, or oppos'd, to form her Execution warrantable. If the *firſt* could not be perſued with the publick Safety, the *latter* might be proved but with private Jealouſie: Who ſubmit not unto the empty Summons of a juſt Authority, may be concluded guilty, without a farther Depoſition.

Definitive Surpriſes are ſuch, which were not formed formerly in the Intention, but on a preſent Injury reſented, perſueth ſuch unequal Advantages, either in Reſpect of *Perſon, Armature*, or *Number*, as are no way reſiſtable. The *Treſpaſs* in Reference to the former, can legally attain no valuable Diſtinction: inſomuch as the irregular will can figure for pretence no motive herein to perſue the Fact, but Malice, nor object thereof but ſimply Anothers Deſtruction, our proper ſafety not in Competition. Nor hath the aſſailed Faculty to avoid the Iſſue of ſuch *Violence*.

Relative ſurpriſes are ſuch, wherein the Treſpaſſer, through Negligence or Preſumption, obliquely only is concern'd, as having under his Tuition, Guard, or Cuſtody, the Subject, Beaſt, or Perſon, through diſtemper prone to act a *Violence*. This manner of wilful *Violence Moſes* reflected on; though poſſibly not in ſo large extent, as totally might concern the Nature of ſuch Accidents: Yet ſufficiently to lend a perfect Rule to form an Ordinance unto the equal Proſecution of any in this Nature unexpreſt. *If an Oxe ſhall gore a man that he dye, the owner or keeper thereof being formerly advertiſed of ſuch a diſpoſition in the Beaſt, the Penalty of the Treſpaſs ſhall be the forfeiture of his Life: but ſo, That for a certain ſum of Money, as a Fine, his Life ſhall be redeemable.* The ground hereof is evident, being in regard the owner had capacity to have reſtrained them from ſuch an Execution. To which, common humanity ought to have been a competent Injunction. Forewarned of the Danger of the Accident; but being altogether careleſs of the common ſafety, ſuch Neglect or Preſumption, might really be ſuſpected to have had a reſerv'd Object of ſome ſecret malice; to which in right, his life could only ſatisfie; yet in reſpect ſuch Beaſt

or Person, possibly, might escape from the Endeavours of the wariest Guard, a fine might justly ballance such incircumspection.

The Reference of an intentional Instigation to a violence, might orderly seem reduced under this Distinction: but since such Procedure falls under common Notion of a Principle, we should too far swerve from the positive Rule of *Right*, to lend them here but a Relation to the Fact, another executes by their direction: the nature whereof more properly is comprised under Distinction of the *Essential*.

3. The *Place* wherein a *wilful Violence* becomes acted may also seem to qualifie the Nature of the Trespass, with Distinction to aggravate or lessen the exorbitance: In Reference whereto we will reflect on these Particulars; *The Temple*, *The Princes Residence*, or *Court of Judicature*, each *Mans Peculiar Habitation*, *Forreign Jurisdiction*.

The Temple hath in former Ages been held in so high Reverence among divers Sects and Nations, that the *Civil Jurisdiction* hath sometime cast restraint on her own *Ministry*, in persuit of Delinquents, taking their Sanctuary within the Limits of the sacred circumscription. If this high Priviledge were thereto constituted on an authentick Ground, how considerable a Motive will it be to induce the *Civil Ministry* severely to endeavour to secure this place from private out-rages. A *Violence* there seems more immediately perpetrated in the presence of that high Judge, who soly to himself reserveth Vindication, and consequently denotes a great Insolence in Contempt of his Ordinance. The high resentment whereof he seems himself implicitly to infer in his terrible Threats against the rebellious Jews deducing the vast Latitude of their Crimes should meet his Vengeance *From the Blood of* Zachariah, *who was slain between the Temple-Porch and the Altar*. Farthermore, this *Place*, erected more peculiarly to perfect and confirm our common union. Such Procedure there practised seems to strike at the very Nature of the Institution.

Private Divisions breaking into Actions of Hostility within the *Princes Residence* or Court of Judicature, highly exalt the Nature of Commotions: For that in such Timerity, the Agents seem totally to cast off the Imposition of the *Civil Jurisdiction*, violating so presumptuously the *Ordinances* thereof, under the immediate notion of her *Ministers*, which properly might seem to figure an open Insurrection against the *Civil Power*.

Acts of *Violence* perpetrated within the Limits of our proper and peculiar Habitation, reach also a Distinction, may properly extend the Nature of the Fact; each man possessing an Oeconomical Jurisdiction within the precincts of his domestick Residence,

ſidence, ſo abſolute, as in ſome caſes, the *Civil* Power ſeems there to limit her juſt Procedure, allowing him it the priviledge of a Sanctuary.

Whither *Private* Acts of Hoſtility perpetrated under a Foreign Juriſdiction, may juſtly be ſubordinate to the Cenſure of our native Laws, or any other forth the Juriſdiction, wherein they were committed, is, in practice, negatively concluded: Yet in Reaſon, may affirmatively be aſſerted under this Diſtinction. If the effects of the Contention do reach no higher Nature then a Civil Treſpaſs; the Civil Juriſdiction, wherein It was in Act, is ſoly therein intereſſed. But if the Conſequence thereof extend unto a higher Nature, as to infringe the Law of God, Nature, or Nations, the guilt can equitably not be diſpenſed with by any other exterior Juriſdiction, conſtituted under the Conformity of ſuch Ordinance, if legally therein proſecuted, In that although the Juriſdictions are diſtinguiſhed in Power, yet have they but one Object in their Rule, in reference to the Treſpaſs; in which reſpect mankinde may properly be ſaid to form but *one Society*.

Farthermore, the Iſſue of the Fact extending only to a *Civil* Treſpaſs may ſometime poſſibly concern the Dignity of a *Juriſdiction*, wherein It was not executed; if primitively the Debate had there original and Intentionally tranſacted forth the Bounds *thereof*, but to avoid the rigour of the Law. Abuſive evaſions from the Intention of the Law, equitably meriting the penalty of a Breach.

4. The more eſſential conſequence of a *wilful Violence*, whereat the Law moſt viſeth to direct her Cenſure, is the Degree or *Meaſure* of the effect, accompanieth the Fact: inſomuch as the cleareſt Circumſtance whatever is capable to yield but an obſcure evidence of the intention, which really if perceptable, might properly perhaps qualifie the Nature of the Treſpaſs. As alſo in That, *This* alwayes anſwers not the Damage of the Injured, whoſe reparation is the Principal, if not the ſole Object of Juſtice. As for the premiſed Collaterals conſiderable in perpenſation of the Fact, *Subject, Manner, Place*, (ſimply, or joyntly taken) they reach no higher conſequence then a *Treſpaſs*, wherein the *Civil* Juriſdiction ſeems principally concern'd, which in it ſelf indued with a Faculty to diſpence a Grace (without the prejudice of the injured) may plauſibly ſuſpend Reflection from her proper Intereſts, to weigh the ſatisfaction of particulars; whoſe injury muſt queſtionleſs, fall under Latitude of theſe Diſtinctions. *A Forcible Interruption. A Simple Verberation*, or *A Real Vulneration.*

1. *A Forcible Interruption*, Reſtraint, or Attachment, although it poſſibly may ſometime meet with ſo important an occaſion

as

as really may prejudice the Sufferer in his *Civil* purpose: yet doth the *Civil Jurisdiction*, in the Nature of the Trespass, seem more especially concern'd, whose sole and proper Object is the Preservation of the Publick Peace, which totally herein seems violated. The Penalty therefore (not without reparation to the injured) dependeth more materially on the Publick Satisfaction: yet in that such Attempts may sometimes meet with other Circumstance, in *Subject*, *Place*, or *Manner*, as possibly may extend the Nature of the out-rage to a Criminel Consequence. The censure thereof sometime properly may be regulated not only by the Event, but by a more especial Reference to our former Distinctions, which also may be practised as a Collateral Rule in the Conjunction of all Degrees of Accidents in this Nature.

A simple Verberation may intimate a Blow, stripe, or Percussion, with, or against any thing, so slight, as visibly not to produce a real prejudice to the Sufferer, wherein the Trespass seems to put on more Appearance of Indignity, then Damage; and might perhaps be plausibly repair'd in a due submission, were not so favourable an imposition too slight an Oppositon to the restraint of such Commotions. And peradventure too forcible an Inducement to instigate the injured to prosecute a higher Satisfaction of his own Election to the Publick Prejudice. In which Respect, as also, that few men think their Honour sufficiently repair'd, unless their Estates may therewith be improv'd, nor his Adversary in fame impeacht, unless impoverished. A more Essential and sensible Reparation may equitably be imposed on the Trespasser.

A Real Vulneration, or wound, is according to the Distinction of Naturalists, *Solutio unitatis*, *The solution of Parts*; whether it be by Suffusion, or Effusion of Blood, by Bruise, or Scision: which Accident may sufficiently (for the use of our Subject, as the Object of Justice) be limited in these Distinctions, *Sine Læsione*, *cum Læsione*, *& cum destructione facultatis naturalis*, *Without Prejudice*, *with Prejudice*, *or with Destruction to the Natural Faculty*.

A Wound inflicted *without prejudice* to the Natural Faculty, beareth no other Inconvenience then the present Grievance, charge of the Cure, or obstacle to the intercourse of Civil Negotiation. The two *latter* Objects of Reparation may fall under a distinguishable Dimension. The *first* obscurely is conceptable to anothers sence: Not truly in the Nature valuable, since the agreeable fruition of the natural Faculties, may justly be esteemed the most visible Felicity.

A Wound with limited Prejudice to the Natural Faculty may reach a vaster Latitude of Distinction in the Degrees thereof, then

then clearly is determinable; which, nevertheless may usefully be reduced unto these ensuing, *Either it perpetually disableth an Instrumental Member totally or in Part, or else a Principal only in Part:* totally, it cannot without subversion of the whole. Yet *lenta Tabe*, with a lingering Consumption. It possibly may advance our end. To regulate the Reparation thereof to the Offence (besides the former Objects) not only the Dignity and Use of the Member so impaired, is exactly to be ballanced. But also the Propriety and Consequence thereof unto the *Civil* Function of the maimed, forming from thence the perfect Measure of a satisfaction, as may his Livelihood, and his Families thereon depend; which though fully responsive to Both; yet the continual discomfort that eclipseth the Delight which should accompany the natural use thereof, is scarce repairable.

A Wound whose Nature or Consequence *extends* immediately *to the Extinction of the Natural Faculty*, without a Lenitive Circumstance to moderate the Disorder of the Fact (according to the Tenure of most Laws in use) exacts for Reparation an equal Infliction; yet the Nature of the Penalty herein seems soly formed Satisfactory to the *Civil Jurisdiction*: which in the loss of a Subject may alwayes not therein be totally concern'd; since possibly the Trespass may not only deprive a Family of a Member, but of their sole Existence naturally, wholly and immediately thereon depending.

XXIX. *Of Sickness.*

WHither *this* Infirmity be the successive Issue of our first Fathers Transgression, or the inevitable Condition inherent to our frail Composure, we will remit to the Debate of *Theologians*, and of *Naturalists*. The Object of whose speculation more properly the Proposition is, it only will be requisite to *Civil* use, so far to search into the Nature of *this Subject*, as may disclose the Impediments, may thence ensue unto the forming of a perfect Constitution in a *Politick Frame*, and the directest means to avoid those fatal Consequences. The Strength and Riches of a Nation most visibly depending on their useful numbers, and their useful Ability, so much as this common Calamity is prejudicial *thereunto* in either, so much *it* detracteth from the establishment of a common welfare: and though it cannot be denied, but that the Members of a *Civil* Body (without such Qualification) in Quantity exceeding, may possibly be a Burden *to it self*: yet have we not lent such Attribute to the Distinction, as if the sole Propriety *thereof* could any way consist in Reference only to Proportion: But to Quality, wherein

if we can form the Parts *thereof* but useful. The Quantity *thereof* will rarely meet excess. Nor can the deboi'cing Multitudes of *Goths*, *Huns*, or *Vandals* (which in declining of the Roman Empire, so frequently o're spread the Jurisdiction thereof in an Hostile manner) be accounted an erruption of the useful, but of the vacant and superfluous people, which needs no farther Argument for Confirmation then their sudden *Exit*. When *David* collected an estimate of the People, they were, according to the measure of their Limits, the most numerous and flourishing Nation ever was, when in his succesſo s Time, That his Accumulations had their Issue (*Silver was said to be as the Stones of the Street.*) And although this may probably be imputed an effect of his so frequent Victories: yet when we shall impartially reflect upon the real Acquisition of successful Arms, we shall conclude, that such Investures seldom are equivolent to their Charge. Nor was there a Defect of other Visible means to the supply thereof in *Civil* Commerce, which proves their Wealth was rather the Production of the mutual Industry of the *Society*,

So necessary a consequent to the Establishment of a flourishing State, It alwayes hath been held to annex *Ability* to their Multitude, that this Consideration only formerly hath produc't a use, in * Commonwealths less Civiliz'd then strict, *To extinguish weakly and Imperfect Infants in their Issue*, which Inhumanity, although improperly provided in Persuit ev'n of their Politick Purpose, since there are divers *Ministries* in a *Civil* Texture, whose Perfections not alwayes follow the Exteriour vigour of the Nerves: yet insomuch as both the vital and the Animal Faculties are educ't into perfect Action by the communicative Vertue of the *exact* Temperature of the Natural Constitution. The Breaches or Infirmities *Herein* either Native or Accidental, chiefly should be visited to be reduc't to such Conformity, as might most properly and happily conduce to the exact managing of every *Ministry* in a *Civil* Union.

* *Lacedemonians.*

To form an Institution truly regular to our purposed Objects, It will be requisite the *Civil* Jurisdiction regulate these Collaterals. The Phisical *Practise*, Habitable *Situations*. *Alimentary Provisions*, *Contagion*, *Excess*. The exact dispensation of Physick hath formerly been esteemed so material a consequent to the *Civil* welfare that divers of the Arabian Princes have been exercised in the Practice, as frequently and vigilantly as in the *Civil Ministry*. And in divers Commonwealths at present, where such a Procedure is not in use, the Princes Care and Cost are still assistant to so material a Provision: not only in erecting Hospitals to the due support of the Indigent, but also in the furnishing of vast Dispensitories at their proper charge

charge for publick Benefit: from whence we may collect, that to rectifie the *Phyſical Practiſe* exactly to the Civil uſe, we muſt perſue two Principles, the *Medicinal Preſcription*, and the *due forming of the ſame*. Which Functions although properly inherent to one Miniſtry, yet ſince the vaſt ſpeculation of the Art and frequent attendance of the Artiſt, have perhaps uſefully divided them. The *Civil* Juriſdiction may diſtinctly ſupervise their Practiſes. In Reference to the *Firſt*, ſtrictly inhibiting that none but of approved knowledge and experience, Integrity and Vigilance preſume to adviſe a Medicinal Preſcription: inſomuch, as though the Nature of the Diſeaſe be ſimple and evident to every common ſenſe. The Remedy alſo thereto known, and generally approv'd: Yet in Reſpect of many other Circumſtances materially conſiderable to the uſeful Miniſtry (as Age, Sex, Conſtitution, Cuſtom of the Patient, Temperature of the Climate, and Seaſon, Time of the Diſeaſe, *&c.*) None but the Maſter of the Faculty (who only can diſtinguiſh their Proprieties) ſhould equitably be allowed to diſpence thoſe Remedies, ſince failing in the ſlighteſt Caution, may poſſibly be produc't an error, equal to a Criminel Treſpaſs: A proof whereof may here be inſtanced from *Galens* Obſeruation and Practiſe, when in the untimely uſe of *Theriaque by an unadvis'd Phyſician, a ſimple Quartern was as he foretold exalted to a Trebble, while he remoued all by the right uſe of the ſame Medicine.* Much greater hazzard muſt the Practiſe run in an unconſulted Miniſtry, when the Nature of the Diſeaſe is Compound, Differing, or Obſcure, and the Propriety of the Medicine doubtful to the Director. *Galen de præcog 2. 23.*

That *knowledge* ſhould be annexed to experience in the Endowment of a natural Miniſter, is ſo evident a neceſſity to the uſeful Iſſue of his Miniſtry, we ſhall not need to inſiſt on any Argument to confirm the Notion. *Experience* without Knowledge being but a blinde, emperical, and uncertain Guide: and Knowledge without Experience, but an unwarrantable Speculation. That Integrity ſhould alſo meet with Vigilance in the Qualification of this *Miniſter*, to render *This* his Practice truly profitable, is as viſible and irrefutable a Concluſion, as the former; this being without that illuſive, *That* without *This* ineffectual.

2. As the Nature of our *firſt* Caution in Reference to the Natural Miniſter requir'd a nice Election, ſo the Nature of the *Second*, In what is adminiſtred exacts a ſtrict circumſpection. Gain, the common Adulterer to all Arts hath here too licentious a Theatre to practiſe her Impoſturies, the traces thereof being ev'n to the moſt knowing ſcarce diſtinguiſhable: and rather may be ſuſpected in the Effects, when as the hazzard is incur'd, then timely found, but to prevent the Iſſue. In perſuance where-

whereof, since none can probably be endu'd with like capacity to the distinction of the Nature and propriety of Ingredients (on which dependeth chiefly their Adultery) as hath the Master of the Art: As also that his credit and advantage followeth the success of his Prescription. He seems in right most properly designed, and engaged to preside the Visitation. Yet in respect such Institution may sometime cast a Jealousie on the Integrity of the Procedure; in that their mutual Interests may often seem to hold too nigh Relation. We may to Him unite the *Civil* Minister in the Commission, who should be both sollicitous and frequent in their search, and on discovery of Adulterate or defective Drugs, to impose a rigorous Penalty. And least the Indigent should want those Aids to their support, (whose natural Defects meet frequently herein a *Civil* Damage) their livelihood depending soly on their Industry; it would be requisite, common *Infirmaries* were erected at the publick charge for their peculiar Benefit.

2. *Habitable Scituations*, either of Cities, Towns, Boroughs, or Houses, oftentimes erected are with disadvantage to the Natural welfare of the Inhabitants, either in their vicinity to Vaults, or standing Waters, from whence issuing, or ascending noxious Vapours, or Exhalations, the Air (that of necessity must yield nourishment to the Vital Spirits) becoming tainted, must insensibly and inevitably subvert the Natural Temper. The effects whereof are evidently distinguished in the Endemial or Vernal Recursions constantly of one and the same Malady: Which inconvenience seldom is avoided, but in the oblick Version or remote Transposition of the Structure.

3. *Alimentary Provisions* in their improper Assimulation too frequently prove prejudicial to the natural Welfare of the *Civil* Frame; which noxious Qualities they either originally contract from *The nature of the Soil*, *Accidental or Artificial Mixtures*, or *from their own proper Corruption*.

Original Attractions may evidently be discovered to us in our Waters, which running through divers Veins of Earth, or Minerals, e're to our view they make eruption, do oftentimes communicate in their use those hetrogene Infusions; so likewise Vegetives, attracting still their nourishment from the Soyl, communicate in their Distributions, the Qualities thereof too frequently repugnant to our Nature.

Accidental Mixtures may be inferr'd in the usual concrescence of Grain of several Natures (as Cockle with Wheat) whose Qualities ofr noxious to our Nature, not diligently divided, induce sundry Indispositions to the Natural Temper.

Artificial Mixtures may visibly be distinguisht in the several Adulterations of our Wines: then which nothing can be more pre-

prejudicial unto humane Nature: Nor nothing in our Nation more generally and frequently in Practise: which abuse in like manner also, may through Avarice or Malice possibly extend It self to many other common Alimens. The *proper Corruption* of our Nutritive Provisions follow most commonly the immature, or the unseasonable collection of the Fruits of the Earth, or the too long suspension from their use. So Corn becomes Musty, Fruits mouldy, Flesh tainted: The several use whereof, so qualified, produceth oft not only private Indispositions in our humane Nature, but general and Epidemical Mortalities.

Having distinguished the Nature of these Impediments to our common welfare, we should thereto persue a Remedy which, meeting in each particular several Objects (the Original Corruption to be avoided, the Accidental rectified. The Artificial and proper prevented, We will reduce them to the vigilance of a publick superuisor constituted only to that use, by the Authority of the *Civil* Power.

4. Without impertinent wresting the Etymology of words to distinguish the Nature of things thereby inferr'd. Since such Notes are oft by the vulger improperly apply'd, we briefly may affirm *Contagion* (in Reference to our Subject) to be *a preternatural affect communicative in the nature thereof to every individual under the same kinde.* How destructive the Effects *hereof* are to the *Civil* welfare, we clearly may collect from the sudden and deplorable Depopulation of many Cities, Provinces, and Nations, who either have hereby become a prey unto their Enemies; or in the Revolution of many years not perfectly restored to their former Lustre. Of this Nature of Infirmity there are two kindes, *Native* and *Adventitious*.

Adventitious is that, which is communicated by Society or Vicinity of Person, or Subject Infected: It sometime also happeneth more remotely in Affinities of Blood, by secret sympathizing of their Constitutions.

Native is that, which is originally attracted in our Generation immediately from the Infirmity of our Parents.

Adventitious meets prevention in the *Civil* Faculty either by Restraint of *Commerce* and *Community*, or by a publick Institution of Artificial Remedies.

Restraint of Commerce, with all infected Places (how remotely distant soever) is evidently necessary to the Preservation of the *Civil* Frame from this Calamity: insomuch, as there are few Materials vendible, in which the Infection may not possibly be transferred to another Nation, after a long cessation of the Effects.

That *Restraint of Community* should be necessary to the Interception of this common Misery, appeareth evidently in the

Contents of Gods sacred Ordinance, *Which doth enjoyn the sequestration of the clean from the unclean.* As also in the miserable Consequences, where *through a presumptuous Opinion of Fatal Necessity*, such order is neglected.

The Nature of this Restraint extends to two Distinctions, either *Exclusive*, or *Inclusive*.

Exclusive Restraint hath for Object only such Persons as resort from all infected places, who usually are secluded forty dayes from a *Society* in common Receptacles for salutary proof.

Inclusive Restraint, concerneth only the Inhabitants of a place intrinsically infected, when the Contagion hath attain'd that height, extrinsical Removals are Impossible, or improfitable. The *Civil* Jurisdiction then confining the infected, (with the Domesticks) to the prescribed Limits of the Family, under exterior Guards, who Minister at distance to their Necessities, till the designed tearm of their confirmed Purging be expired.

Artificial Remedies within capacity of the *Civil* Ministry, are either, *Preservative*, *Curative*, or *Purgative*.

Preservative are such, as honoured *Hipocrates*, *Who foreseeing the Infectious Vapors encroaching on the Confines of his Native Soil, advis'd the* Civil *Ministry to cause the Etolian Forrests to be set on Fire*; whereby the Air being purified, the fury of the Pestilence was from them diverted. Under this Distinction may also be comprised medicinal *Fumes*, *Odors*, *Antidotes*, enjoyned by the *Civil* Ministry, according to the Physical Prescription.

Curative Remedies are such Medicines, as by the general Consultation of the Natural Ministry are composed to the publick use, and by a Civil Injunction formed at the publick charge, to be reserv'd in publick Dispensatories, and from thence issued, as need requireth for the common Benefit.

Purgative Remedies have a more peculiar Reference to the Circumspection of the *Civil* Ministry, although the Advice of the natural not totally therein is to be excluded, which tendeth only to the purging of the Habitations, Utensils, Vestures of Infected Persons, either by *Aire*, *Fire*, *Water*, *Fumes*, pollishing or demollishing; insomuch, as the Infection undistinguisht may remain conceal'd, not only past the tearm of *Civil* Circumscription; but after the elapse of many years sometime break forth into a new eruption to the publick prejudice.

Many Indispositions or Aptitudes to several *Maladies* may be transferr'd by the *Infirmities of Parents in our Generation*, which properly fall not under the Distinction of *Contagion*, since they may follow possibly the imbecility of those parts to which they are coincident, as the Gout, Stone, Ptisick, Small Pox, &c. Whereof to agitate, we will not here insist, the Nature thereof being a Subject more peculiarly inherent to to the improvement

ment of the natural union; of which we shall persue to treat in our ensuing order: yet are there other Diseases contracted in our Generation, may pertinently fall under this Distinction, as *Lues Venerea*, *Morbus Elephantiasis*. The *veneran* Pox and *Leprosie*. To the prevention of the *latter*, we may remit our *Civil* Ministry to the Direction of the sacred Ordinance. But to avoid the *Former*, the surest Rule will be the extirpation thereof by a penal Prescript.

Sensual Excess, as prejudicial to the Natural welfare of the *Civil* Frame, may be reduc't to these Distinctions, *Gluttony*, *Drunkenness*, *Luxury*: Yet in Respect there are many Degrees of excess, may possibly impair the natural Faculty, that reach not to the note of their Dimensions. It would be requisite to our common Preservation to lend to this extravagance a more visible prescription; which meeting several Measures according to the Age, Constitution, manner of Life and Climate, will yet in the persuit thereof enforce us to contract them to one general Notion to regulate the rest, *Cum gravata vel oppressa sit Natura. When Nature is burdened or oppress*. In Reference to which Rule, although the Nature of *Gluttony* may easily be discovered: yet since many regular Ministries to Nature may accidentally agree in the Distinction of this Rule, which properly cannot be qualified with Affinity to such Attribute: We therefore must thereto insert a sensual Motive, not such as often is produc't by some preternatural Affection, as *Caninus Appetitus*. *Pica* or the like; but such as soly follow the inordinate Motion of the will; not only in the superfluous Ministry to Nature; but in the untimely solicitation of her Faculty; the Effects whereof become destructive to her Order; either in the insensible debillitating or visible Extinction of the innate heat, according to the irregular Measure of the Ministry, and vigour of the Natural Faculty.

Drunkenness may also in the same Distinctions agree with the prefigured Disorder, only in Respect of the Object, they meet some Difference in their Operations, that may be said to smother or to choak the natural Heat, with the superfluous burden of her Aliment: *This*, with the Adventitious Heat, (inherent to her Object) to educe and attract the innate Heat out of her radical Position, *That* frequently but by Degrees; *This* suddenly and totally disableth from a due capacity of *Civil* Practice: And though the Effect may sometime meet an Intermission, yet since the Re-accesses hereof are uncertain, such temporary Incapacity may properly, in Reference unto *Civil* Rights, be admitted to a general Insufficiency.

Luxury also in the prescription to her Nature, may hold an equal Parallel with the *Rest*; yet in respect of differing Objects where-

whereby they are educed into Act. This inordinance by different wayes reacheth the destruction likewise of the Natural Frame. In the frequent Effusion and Elation of the Spirits, which are the perfectest Productions of the innate Heat, whereby the soul can only exercise her Faculties: nor yet can these extreams be limited within the Title soly of a Natural Trespass (in which perhaps each one (in right of his own Interest) might challenge to himself a right of Dispensation: since such profuseness tendeth not only to the disabling or Destruction of the Practisers, but to the useless dissipation of the common store; as also the disabling of their Issue to the publick use, not only in the natural Defects of the Body, but in the vicious Inclinations of the minde, infused in their Generation: and in such powerful Examples habitually fomented and confirmed in their Education.

In which Respect our *Civil* Minister should lend more strict and vigilant Circumspection to the suppression of such unnatural Inordinacies, instituring thereto a moral supervisor (in nature of the *Roman* Censor) endued with capacity to impose just Penalties on such Disorders, either by publick Infamy, Civil Incapacity, Fine, or Personal Infliction, equivolent to the Degree and Frequency of the *Extravagance*.

XXX. *Of Indigence.*

NO Moral Argument can more evidently confirm the fall of Man from the first Purity of his Nature, then *This* his acquired Misery; it being a Reproach to our Creator to figure an Insufficiency in his hand-maids Ministry: And although Nature (suffering under the sentence of Mans Original Transgression) may seem declined from the Perfection of her primitive Institution, in the Retraction of his Grace, had formerly lent more Influence unto the support of her Order; yet did such Affluence tend rather to the enlargement of his Felicity, then the necessity of his existence, whose being had rather then for Object his Speculation then his Action, but having in the unhappy exchange of his Function, forfeited the Excellency of his Condition, the measure of *Her* Fertility became proportion'd only to *That* use, not to the Ministry of his Licentiousness, which wild Revolt from her Prescription, in appearance, might detract from *Her* Benignity, but not exhaust *her* Treasury, whose sources, when restrained, are unsuck'd, either in submission to the Penalty of the Trespass, *To live by the sweat of his brows*: whence was concluded, *the Industrious should be filled with Plenty*: or in the tender of *His* Gratitude, in a helpful Dispensation, whence

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is aſſerted, *The means of Preſervation in the Day of his Neceſſity.* And although the *Latter* concluſion may ſeem to extend beyond the Limits of a *Civil* Poſition, to which we in Propriety to our Subject only ſhould adhere: yet ſince the Expoſition of the Inſtitutor hath alſo *It* reduced to a *Civil* Notion, *under the figure of a Prudent Steward.* We ſhall form no impertinent Digreſſion to incline to the explicit ſence thereof in Regulating our *Civil* Oppoſition to this Calamity, in reſpect a mutual and coadjutive Miniſtry immediately is neceſſary to the due ſupport of the *Civil* Faculty.

From the general Reſult of our Argument, may viſibly be collected three diſtinct *Principles* neceſſary in Practice againſt the Approaches of this Miſery, *Induſtry*, *Providence*, *Charity*; which perſue alſo three diſtinct Objects to attain the perfect uſe to which they were directed. *Induſtry* acquireth, *Providence* reſerveth, *Charity* diſpenceth: On which three columns, we will erect the Fabrick of our *Civil* Magazine. To appropriate which exactly to the uſe, we will reflect on the extent thereof, which may be limited in this Diſtinction, *Publick*, or *Private.*

The *Publick* uſe hath for Object common neceſſity; the Nature whereof, although perhaps extended to many particulars, in Reference to our livelihood; yet pertinently may be reduc't unto the Intimation of one common ſubject, under the Diſtinction of *Grain*; which ſoly being ſufficient to the ſupport of our natural *Life*, all other Aliments ſeem therein properly included. *This* common Calamity (in the Defect *thereof*) moſt frequently is induced by the ſtubborn perſuit of our Original Corruption, *Which cauſeth the Earth to be as Iron, and the Heavens as Braſs.* Such was *Jewries miſery under* Eliſha's *Prophetick Miniſtry*, *ſuch Egypts, under* Joſeph's *Delivery.* And though the efficient cauſe of this Diſaſter may ſeem to be of a far higher Nature, then yet a *Civil* Faculty could e're pretend to reach at the Removal in a timely Remedy: yet ſince Divine Providence hath ſo far favour'd humane Prudence, as to avoid the fury of the Iſſue, we plauſibly may follow the example of ſuch Practiſes, which though often grounded on a ſupernatural Prevoyance, yet have they in their *Civil* Order left an uſeful Preſcription. The Method of *Joſephs* Miniſtry under *Pharaoh*'s Truſt, was to erect vaſt *Granaries* in every part, ſucceſſively accumulated from the ſuperfluous Affluence of the common Plenty. In proſecution of the order of this Rule may probably be objected, that he had happier Aids to lend ſucceſs to his Intention, then humane Wiſdom alwayes is aſſured of, *A remote Prevoyance*, and *a Succeſſive Plenty.*

In Reference to the *Firſt* capacity may be reply'd, we want

no pre-advertiſement to *That* which alwayes may, and frequently doth happen, in one Degree or other.

In Relation to the *latter* may be inferr'd, the Faculty of Nature doth rarely want ſuch ſupream meaſure of Celeſtial Influence to educe a fertility; where Induſtry hath in her form'd a perfect Diſpoſition by a proper Culture.

To the uſeful *Diſpenſation* of the common ſtore, we only will inſert this Caution, That It be *Seaſonable*, *Orderly*, *Proportionable*; not *Chargeable*, or *Burdenſome*, the perfect'ſt Attributes of a Benefit.

Seaſonable, Before the exigent hath impaired the Faculty of Nature, either in defect of Aliment, or in impulſive Refuge to improper ſuſtenance.

Orderly, Commencing the ſupply either in Reference to place or *Perſon*, where there is greateſt urgency.

Proportionable, This Qualification of our *Subject* hath in the propriety of uſe a reciprocal Object. The true Dimenſion of the Diſtribution iſſuing from an equal collation of the common Faculty to the common Neceſſity, be It diſtinguiſhed either in Reference to the number or Diſability of the Family.

Not *Chargeable* or *Burdenſom*, elſe were exchang'd, but not remov'd the Miſery, reverſing totally the Nature of the Inſtitution, which had for Object ſoly mutual Relief of the Society, no *Civil* Commerce for abject Lucre to enlarge a Treaſury.

Many other remote Degrees of *this* publick Exigence may alſo be produc't by *Avarice* and *Diſorder*.

Avarice thereto conduceth either in an untimely Reſtraint of private Store, or in a ſecret and unſeaſonable Alienation thereof by exportive commerce, or in perverting the uſe of the Soyl; to avoid which Inconveniences, the *Civil* Miniſtry might conſtitute an Inhibition, that no private Oeconomy whatever ſhould, under Penalty, preſume to extend the total Iſſue of their annual Store, beyond the Revolution of a double Crop: From whence deducted an equal Proportion to their private uſe for ſuch a ſeaſon; the Reſidue to be tendered at the publick Mart in ſuch equal proportions as might extend unto the tearm ſo limited; and ſuch a Quantity as there remained unvended, the Subſtitute to the *Civil* Miniſtry might take off only at a ſubvalid Rate, wherewith the common Receipts ſhould inceſſantly be repleniſh'd for the Publick uſe: To which limited Preſcription of Time and Portion ſhould alſo be confin'd the Buyer as well as the Seller: And for a Regulation to their Commerce, whoſe Function might alone thereon depend, to limit their Proportions within capacity of their Returns.

Exportive Commerce of this Commodity (except on ſpecial Licence from the *Civil* Miniſtry) might totally be inter dicted.

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The perverſion of the Soyl hath almoſt every where found ſo general a Practice in perſuit of Improvement by incloſure, that it may probably be apprehended, without a due and timely Reſtraint to ſuch Liberty, the *Civil* Frame will ſuddenly fall under Prejudice of the Tolleration, either in an incompetent Proportion of our Tillage to the common uſe, Impoveriſhing the Labourer, or depopulating our Villages; which uſage poſſibly might meet a proper Regulation, if Impoſition might be laid on every Town to lay forth ſuch a quantity of Arrable, as might ſuſtain the Inhabitants thereof againſt all Caſualty.

Diſorder alſo frequently may prove an Introduction to common *Scarcity*; which following uſually the inſolence of Licentious Armies, the *Civil* Miniſtry only can remit the regulation thereof to the vigilance of the Military, if over It remain *there* to ſuch Influence.

2. The *Private* uſe exacts for Object only a peculiar Indigence, which uſually is induc't by theſe particulars, *Vacancy*, *Impotence*, *Caſual* or *Unjuſt Dammage*. *Vacancy* may uſefully be enlightned with this Diſtinction, *Voluntary*, or *Impulſive*.

Voluntary Vacancy meeting this miſery, as a juſt Penalty, might ſeem but too indulgently treated by the *Civil Miniſtry*. to be but only viſited for Relief, were not the publick welfare inherently therein concern'd, either in the loſs of a uſeful and communicative Faculty, or in the ſufferance of a uſeleſs and prejudicial Burden; to avoid the Dammage or Incumbrance of ſuch ſuperfluous Mixtures; The *Civil* Miniſtry can only ſafely imitate the Practice of the Phyſical; *Aut corrigendo, aut ejiciendo, Either in Correcting or Ejecting*.

The perfect'ſt method of Correction is that, moſt probably may reduce them to a juſt Devoir, which properly may be proved in the due Impoſition of a penal Task, if which proceeding not attain the intention of the Inſtitution, ſuch incorrigible Incapacity may equitably deſerve an infamous Ejection from our *Civil* Union in a preſcribed Exile.

Impulſive Vacancy encountring Indigence, merits a more debonair Redreſs, and nicer Circumſpection from the *Civil* Miniſtry, to educe obſtructed Inclination into uſeful Action; not only in Compaſſion to an undeſerv'd Diſt eſs, but alſo in reſpect their ſuffering may be adjudg'd a dangerous ſymptome of the Failing Faculties of the *Civil Union*: The intercourſe whereof can as ſeldom ſuffer Intermiſſion or Ceſſation, as the Natural, without the hazzard of Deſtruction.

To form a Remedy to this ſuſpenſion, it would be requiſite, a publick mannage were inherent to the *Civil* Frame (as *Davids* Rural Oeconomies, or *Solomons* Naval Commerce) to which all the neceſſitous vacant might freely have recourſe for their Imployment

ployment at a ſubvalid Rate, from whence they might have Licenſe to retire, when they could finde occaſion better to improve their Induſtry, which Inſtitution happily might meet other Important uſes to enlarge the welfare of the *Common Union*, not pertinent to appropriate to our preſent Subject.

Impotence of *Civil* Faculty in Members of the Body *Politick*, can only reach to theſe particulars, *Infants*, *Aged*, and the *Infirm*.

Infants abandon'd to the Caſualty of their Exiſtence, may juſtly from the *Civil* Miniſtry, claim the exacteſt tender of ſupport, in that they are indu'd with a potential Aptitude to make a Reparation of the Breaches, which the *Civil* Body daily ſuffers in the Infirmity of Nature, rendring the Conſtitution thereof in ſuch ſucceſſive Springs, an everlaſting Exiſtence; under what Limitation of time we ſhould denote this *Civil* Incapacity, can not more properly be expreſt, then in the *Naturaliſts* Definition of their order: Foraſmuch as after ſeven years tearm they are (according to the Practice of divers Commonwealths) capable of a *Civil* Introduction to attain their Livelihood. In the interim the equal and leſs Burdenſome Tuition of them, is the Parochial Exhibition, where each particular becomes to his ability an unſolicited Adjuror.

2. As the *Civil* Miniſtry ſhould reflect on the Indegence of *Infants*, in reſpect of what they may be; ſo on the neceſſity of the *Aged*, in reference to what they have been; which yielding a more viſible Proof, may direct us to a more proportionable Diſtinction in the inſtitution of their ſuccor, ſome have exhauſted their proper ſtore in the relief of others Miſeries. Others in the ſupport of publick Exigents: Some have ſpun out their years under the fruitleſs Travel of a Publick charge. Others ſinck under the rigid perſuit of their private Function. And although the *Civil* Miniſtry may ſeem in Honour more nighly engaged unto their ſupport, who are become declined in their Faculties, in Proſecution of the publick Intereſts. Yet in Humanity is *It* not acquited from the care of their Protection, who therein fail, under what accident ſoever; inſomuch as *Age* is a common and irrepairable Deficience, inherent to the frailty of our Nature, under what extent of time ſhould properly be diſtinguiſhed this *Civil* Incapacity, is poſitively not determinable, both in reſpect of the differing objects of a *Civil* Function, as alſo in regard of the various Temperature of the natural Conſtitution, native or adventitious; ſo that we only can conclude a man agedly deficient, according to the *Civil* Preſcription, when the natural Faculties (only through Age) are ſo declined from their proper vigour, they can no longer uſefully adminiſter to a *Civil* Practiſe; from whence ſhould properly be deducted a

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ſupport to this Infirmity, may be diſcovered in the Nature of the Subject of their ſterril Agitation, which falling under a Publick, or a Private Diſtinction, we may erect the Inſtitution of ſupply in due Conformity to the Relation of thoſe Intereſts. If the Publick more peculiarly have receiv'd Advantage by their Induſtry. The Dignity of the *Civil* Miniſtry is engaged, not to permit their Induſtry to paſs rewarded only in their precedent exiſtence, both in reſpect their poverty may be a mark of their Integrity, as alſo ſuch neglect may probably prove a Motive unto others, to proſecute the publick Intereſts leſs aſſiduouſly and faithfully: to which natural defect cannot be iſſued a more timely ſuccour, and with leſs charge unto the Commonwealth, then to admit a ſubſtitute to his Office, under ſatisfaction only in future, to ſucceed to the imployment: the benefit thereof to be tranſacted ſoly to the uſe of the declined Officer.

If their endeavours were directed only to the Advancement of a private Intereſt, thoſe Relations (whither Natural or *Civil*) ought mutually to contribute to their ſuccour: but ſince no ſuch voluntary conducement can be expected from the degenerate Inclination of Blood, or Ingratitude of man ſo generaly in Practice. The *Civil* Miniſtry ought not to ſuffer the infringement of ſuch rights to paſs without a Legal Penalty.

The *Civil* Incapacity implyed by *Infirmity*, may properly extend the ſence thereof to every preternatural Affect, whereby the Body is diſabled to the Miniſtry of a *Civil* Function, whether it be Native or Adventitious, Temporary, or Irrepairable: which deficience meeting with the Calamities co-incident to Indigence, in Reaſon may require a ſpeedier and more vigilant protection, then the reſt, The afflicted ſinking under a double miſery, propenſive to exalt the Evil of each others Nature. Whence hereto equitably ſhould be deriv'd a ſuccor, exacts a vaſt extent in the Diſtinction of the Accidents. If injurious, then is the *Civil* Miniſtry charged to exact an equal Reparation from the Treſpaſſer. If under an Affiduous Subjection, and incident to the Function, then is the intereſſed thereto ſoly engaged to the ſuccor: If Naturally or Caſually under a *Civil* Relation, the Aid therein hath Reference only to the tearm of ſuch Engagements. If under a voluntary ſuccour of another, the aſſiſtance is Reciprocal: If under none of theſe Diſtinctions fall the Accident, the Natural Relations are engaged next to the ſupport. If thoſe are not endued with a capacity thereto, their ſafeguard only reſteth in the publick Succour.

Who are reduced into Indigence by a *Caſual Dammage*, be it Fire, Inundation, Tempeſt, War, or the like publick Calamity, more equitably may repair, for their ſupport, unto the *Civil* Miniſtry: Inſomuch, as it only falls under the Capacity and

Devoyr thereof to avoid ſuch Accidents by a timely Circumſpection. Nor can a more equal Redreſs thereto be inſtituted (ſince every one may therein be concern'd) then by a General Collection.

The *unjuſtly Dammaged* to this extremity may ſeem to afford a Subject more properly inherent to the Deciſion of *Civil* Rights, then charitable Aids. Yet inſomuch as ſome have not Capacity timely to proſecute Legal Rights to the Advantage of their Future Intereſts; either by reaſon of the Immaturity of their Years, Defect of Natural Light; or ſtrict ſubordinance to nigh Relations, eſpecially therein concern'd. The *Civil* Miniſtry might impoſe the Circumſpection and Tuition of their Intereſts upon the next Relation of Capacity to agitate therein, under the penalty of their ſupport, whoſe Right had failed in their Negligence. This may appear, at firſt Inſpection, but an inconſiderable Caution, to preſerve the Members of a *Civil* Union from this Calamity: Yet when we ſhall more ſeriouſly reflect on the numerous failing of Succeſſions, Breaches of Truſt, and voluntary Reverſions of Contracts of Marriage (the chiefeſt Principles to the ſupport of Families) through the irregular Expence of careleſs Parentage, we rationally may conclude that *this* Particular requires more Circumſpection from the *Civil* Miniſtry (in reſpect of the Multitudes therein concern'd) then all the reſt we have inſiſted on. Nor can a more proper ſubſtitute be thereto inſtituted, then who may probably be intereſſed in the Conſequence: provided that the *Civil* Miniſtry be readily aſſiſtant to their Remonſtrances.

XXXI. *The ſeveral Objects of the Law in Reference to the Improvement of the Natural Union.*

HAving diſcuſſed on the ſeveral Objects of the *Civil* Miniſtry, in reference to the *ſecurity* of the *Natural Union*: In perſuit of our Order, we next proceed to treat on the *Improvement* of the *Natural Union*, which, in Relation to the *Civil* uſe, extended unto ſeveral Objects, may properly fall under the Diſtinction of theſe Principles, *Generation* and *Education*, whereon we will diſtinctly agitate.

XXXII. *Of Generation.*

WHither it be, that man bruitiſhly follows the ſenſual motive of his Nature in Adulation only of the ſenſe; or that the uncertainty of the Effect enduceth in the Agent

Agent a neglect of the Act: Of all the Appendices to our exiſtence, no one is ſo remiſly proſecuted (in Reference to the uſe) as is the Introduction to our Being: which being the Radix, Ground, and Foundation of all Natural Perfection, in Reaſon ſhould exact the niceſt Circumſpection: And although the Productions of Nature have higher and more ſecret Guides to form their operations, then humane Wiſdom can pretend to alter; yet ſince the matter, whereon thoſe hidden influences do operate, falls under Regulation frequently of humane Faculty, by a judicious and preadviſed Preparation, the Matter being rendred more perfectly ſuſceptable of their ſupream Impreſſions; the Form thereof will conſequently become educed into more perfect Action. This is made evident in ſundry vegetives by daily Practice of our terrein Culture. And more (to our Reproach) in our Aſſiduous Conjunction of thoſe Animals, whoſe kindes have a peculiar Reference to our abject **Lucres**, or Licentious Pleaſures. Perhaps a curious Artiſt alſo might hereto inſert the ſpeculative Prevoyance of the order of the Celeſtial Lights, adminiſter thoſe predominant Influxes; to the Advancement of our purpoſes in an exact Election: But ſince the Practice probably may ſeem repugnant to the uſe and inſtitution of thoſe Superiour Miniſters, attempting to direct their vertues, who do ours preſide. We only will adhere to our prepoſited Induction, which to the eſtabliſhment of our Poſition, will direct us to the Reſtraint of theſe Particulars from ſo material an Operation. The *Immature of Years, The Drunk, The Licentious Luxur, The Infirm. The Immature in Years,* In Reſpect that Nature being then buſied about the accompliſhing of her Structure, imployes her vigour ſoly on the exact forming of the Parts thereof, e're ſhe proceed to propagate her kinde for Reſtauration of her Order; from which diverted in the Anticipation of her Miniſtry, ſhe leaves her edifice unperfected, and in the Inaptitude of Materials thence deducted, educeth but a Frail and defective Conſtitution in another. What Diſtinction of Time ſhould regulate this Preſcription, may authentickly be collected from the Naturaliſts Agreement of the Confirmation of her work. *Ætate Conſiſtente. In the Conſiſtence of our Age*; which *Ariſtotle* Entitles, *Ætas procreandi Divina*: Yet ſince the Inſtitution of *Generation* confined to thoſe years, may ſeem directed rather to the Perfection of the work, then thereof ſimply to avoid but the deficiency. We may proportion the Extent thereof more properly according to the Model of the *Civil* Order, which much ſhould erre in the propriety of her Function, to admit a Member to the priviledge of being Maſter to a Family, e're it allow him a Capacity to the Fruition of his Property. Whither it were neceſſary to the uſe, to include each Sex in the

the Position of this Rule, may probably be disputable: Yet since it is a work of Nature, we therein plausibly may be directed by the enlightners of her Mysteries, who generally affirming the nobler and more solid parts of our Composure to receive the chief part of their principles from the Masculine, we properly may incline to the exclusion of the Feminine from such Regulation.

The Drunk. In the Intimation of this Exception, we only do imply the present State of *this* Disorder: not but perhaps Custom may therein probably attain to such a Habit, as might be requisite to admit of an Intermissive, or a General Exclusion. In Reference to our Position the Carthaginians form'd this Caution, *Not to exceed in Wine that night design'd for Procreation.* In Respect the excess hereof not only perturbs the Spirits, chiefly officiate to the Operation. But nature also (surcharged with a superfluous Burden) contracting all her vigour to regulate the Disorder, becomes not only then diverted, but enfeebled to the exact Execution of her highest Ministry. Nor is it probable but that the *Genial* substance suffers in the Distemper such an Alteration and Intemperature as may deprive it of that Aptitude, should render *It* susceptable of a perfect Form. But how the *Civil* Ministry should equitably exercise a Faculty of Temporary Division, where It hath constituted a continual Union, is scarce distinguishable, unless it be by Imposing Penalty on the *Civil* Trespass, Infamy on the Natural; wherein the Modesty of womanhood impeeched, might possibly crown the Intention of the Institution with success.

3. To interdict *Licentious Luxury*: from the legitimate Priviledge of Natures needful Ministry, may seem a Procedure repugnant to the *Civil* Institution of her useful Remedy; Yet in Respect such wilde desires rarely do submit unto a decent or regular Prescription: As also that the consequence attends on the Pretence may probably subvert the natural end of such a *Civil* Priviledge, either in debilitating the Natural Faculty by too much effusion of the Spirits, in an untimely frequency of the Act, or impairing the Natural Faculty by contracted Infection from the Diversity of Objects; we properly may admit of such an Inhibition (not only as a Natural Caution, but as a *Civil* Penalty) since Nature in us covets to perpetuate our Existence in the successive Propagation of our kinde, nor is totally improbable, but that the *Civil* Institution of divorce assumed an Establishment from the Reflection of our equal Purposes.

4. That it should be requisite to an exact Production, to suspend or exclude *the Infirm* in Natures Faculty from officiating to her Ministry, is so evident a Position, as will rarely meet a Con-

Contradiction, in regard, Nature then soly is intentive to repair the Breaches of her proper Continent, not to form her Similitude in another, to which if then impulsively directed, she forced is to assume her principles from an imperfect Abstract, whereby those deprav'd Dispositions and Intemperatures become transferred on her purposed Pattern.

What kindes of *Infirmity* (under the Capacity of *Civil* Union) or what degrees thereof should properly fall under Inhibition. Nature her self may prove the best Informer, whose Motives seldom are irregular, if not suborned by licentious Habits; Although perhaps sometimes left soly to her proper Conduct, she therein may officiate to her own Infirmity; yet are the Effects thereof perceptably preceeded or accompanied by other Symptomes preternatural, which falling under the Capacity of other Cure, may equitably be dispenced to assume that Course, might probably produce an equal Inconvenience in Anothers Being: But how the *Civil* Ministry should be possessed with a Faculty to regulate this Inordinance, where the Defects reach not a visible Incapacity, not clearly is distinguishable, unless it be in the suppression of Licentiousness and Lux, that frequently foment the untimely and Indecent Motions of the Sense, which so become subordinate to Reasons Ministry, shall seldom want other Inducement to regulate the will, then our own present Safety, and our own Issues future welfare, endangered in a sensual and untimely Liberty.

Having attain'd the *Natural* Object proper to the Improvement of our Being, exactly forming the Constitution of the Body in a regular *Generation*, it might perhaps yet appear necessary to the due Prosecution of our Order here to persue the Improvement of the *Animal*, in Reference to our present *Subject*. But since the Soul educed only is to perfect Action, by the just Figure, Contiguity, and Temperature of her Organs, in positing the exact Composure of the *Natural* Fabrick, we have implicitly concluded of the potential Perfection of the *Animal* Faculties.

XXXIII. *Of Education.*

NAture having never so exactly cast her Model, yet in our first *Education* leaves the supple Matter Subject to the Alteration of every slight Impression: so that the Circumspection of our Elevement is of far higher Consequence then the Regulation of our Primitive Materials: Insomuch as in our *Generation* we receive but a potential Aptitude, in our Education an actual Habit: And though the *Natural* Inclinations rarely

are effaceable, yet are the most irregular sometimes improvable, if undertaken in the Infancy by a vigilant skill: As also the most consonant Impairable committed to an Imprudent Neglect; a visible proof hereof, *Licurgus the Lacedemonian Legislator published to the people in the dissenting Inclinations of two Hounds extracted from one Litter.* The same Analogy in efficace, as our Culture holdeth with the Soyl, the same our *Education*, with our *Generation.* The dispositions of Nature, though ne're so fertile, being but extravagant Propensities, if not directed to a useful Ministry; nay, usually the most pregnant Faculties exact the most advised Regulations, as well in the Animal, as the Natural Operation: which Circumspection must be seasonable, while yet the plyant matter is susceptable of any form, and the facile Spirit not servilly possest with an insulting Custom. As the Receptions are then most easie, so the Impressions are then most Lasting. *Quo semel est imbuta recens servabit odorem Testa diu.* The Vessel retaineth longest the odor of the first seasoning. Neither requires this only an Oeconomical, but a *Civil* vigilance. So much was implicitly expresst in the *Spartans* Reply, *When their Adversaries demanded thirty of their Children for Hostages, refusing to yield up their youth, they proferr'd to engage a double Number in virility.*

Under what general Principles our present *Subject* should be distinguished, or how persu'd, we farther will examine; such Notions first prepositied, may form our rude and passive Nature, perfectly susceptable of so exact an Institution. In Reference to which order, our frail Composure being constituted of differing Materials, the *Civil* Ministry must in the Regulation thereof vise at distinct Objects to educe the individual into useful *Action*, *Chearful Vigilance*, and *Infatigable Travel*, in Relation to the Body. *Moral Civility*, and *National Affection* in Reference to the minde.

Vigilance, In regard such Habit endueth us with Capacity to anticipate all Occasions, may conduce unto our Purposes, extends the tearm of Life lost in a sluggish Stupidity, and lendeth more Facility to the Prosecution of an enterprise: Nor is this season of purility only material to this Regulation, as most susceptable to the Induction of any Form; but as most incident and propensive to yield the Indulgences of sloth, most frequently then accompanying the o're humid Temperature of the Brain. Which exercise we have qualified with *Chearfulness*, lest the severity of such a Caution should become to yet unactive Spirits a disagreeing Burden, so render them less useful, fetter'd with such Anxiety: On which Consideration, was perhaps grounded the Prudence of those Parents, who have been so exactly regular in Education of their Children, to have their Spirits,

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(with the new born day) summoned softly from their flattering slumbers by the inticing notes of Harmony.

2. *Travel*, Insomuch as by assiduous Exercise, the Body by degrees becomes both strengthned and inured to encounter Actively or Passively, all Oppositions peculiar to our Functions, or accidental to our Fortunes. The constitution of our Body becomes hereby improved, and our Health secur'd, The Spirits hereby also will become more pure and vigorous to the Exercise of the minde, To which Practice we have annexed this *Coherent*, that our labours be not so remisly prosecuted, as they might suddenly become rebutable, but that they might incessantly extend unto the time prefixed to the use, without Incumbrance to the undertaker, either by entertaining the minde with variety of Objects, or with the Recompence and Glory of the Issue.

3. *Moral Civility*, This Qualification extends It self to many excellent uses, perhaps beyond the full Prescription of our present Observation, or the just Capacity of our *Treatise*. First it layes an exact Foundation for *Civil* Rule to erect her Fabrick on, forming the minde to a gentle and snbmissive *Obedience*; whereon was constituted the *Spartan* Glory. It lendeth a ready Capacity to every knowledge, in a plausible Docility. It disposeth the minde to a timely and officious succour, in a resenting Humanity. It appeases the fury of an Adversary, and wins our Inclination e're we consult our will. It is the very band of common Union, and the establisher of Peace. Reproof invested with this Ornament, is an effectual Balm, and the most strict subjection still agreeable: Nor yet becomes the Influence of this *Vertue* limited within the Notions of her proper Nature, but polisheth the minde to the more apt Reception of holy Mysteries. Our Savage Nature (of necessity) must first assume a meaner speculation, e're it can be endued with Capacity to ascend unto so high a Lumination. Humility and Concord are the most proper Figures of a *Civil* Conversation, and without question the first and utmost step to Divine Institution. Nor can the sullen rigid Forms of a transported Zeal, win a judicious Credit of interiour Piety, which strive to smother these exterior Graces of Humanity.

4. *National Affection*, Of all the endowments, may, in our frail Conjecture, tend to the exact composure of a well form'd minde. No one, in humane Reason, can be so requisite to the Establishment of a *Civil* Felicity, as *This* entirely constituted in every part of a *Community*. All other Vertues may have secret Sources, and Improper Objects, not consistent, perhaps, with their true Essences, but in form, adhering only to peculiar Interests. This only is the proper test to all their Attributes, most

moſt Hiſtories being pregnant in Authentick Proofs, That Vertues faireſt Ornaments have frequently, not only attempted, but therein ſucceeded, nay materially conduced to the ſubverſion of the *Civil* Frame. The firſt and moſt viſible ſtep to all the antick *Roman Glory*, and enſuing *Greatneſs* was formed from the ſecret influence of this their innate Luſtre, and in decline thereof *Both* terminated. Invincible being that ſtrength, where all the Members of a *Civil* Frame, are animated only by one *Object*.

Our rugged Nature thus poliſhed and prepared to the Reception of a more excellent Capacity. We will proceed to the Remonſtrance of thoſe Objects, we purpoſe to direct them to, as moſt material to the *Civil Union*, which properly may be compriſed in theſe enſuing Principles, *Letters*, *Arms*, *Agriculture*, and *Manufacture*: Theſe being the only Columns that ſupport a *Civil Fabrick*, though ſeveral uſeful Branches hence deriv'd, may poſſibly, at firſt Inſpection, ſeem to participate a more diſtinct Nature in their Conſequence.

1. *Letters* have in their Nature a very vaſt extent, poſſibly not coherent, nay probably not conſiſtant with the Felicity of a *Civil Society*, ſince we may evidently collect this general obſervation from Records of Antiquity. That the moſt flouriſhing Empires have viſibly declined from their Vertue, and Valour, as they have made higher progreſſions in the ſearch of humane Sciences. Nor hath the ſecret effects hereof been leſs remarkable to the barbarous and illiterate Incroachers on the Chriſtian Continent, who have forbore to ruine many publick Libraries, only on this deſign, That they might be left as uſeleſs Triſles to amuſe their ſubdu'd Adverſaries, and reſtrain them from any generous Attempt, might reinveſt them in their former Liberty and Glory. The truth is, Letters in their abord, have an alluring Faculty, doth eaſily induce the minde, not only to a neglect, but to a general miſpriſion of *Civil* Practiſes, and the ſedentique Poſture is of neceſſity impoſed on us in perſuit of their Myſtery, unerves the Body, and effeminates the minde.

* The Goths in *Greece*.

To avoid therefore this Error in *Their* Nature, and this Inconvenient in the manner of *Their* Acquiſition, we will confine *Them* only to *Their* proper uſe, and preſcribe to their exerciſe ſuch Objects only, as are material to the *Civil* welfare. All Arts and Sciences whatever, being but *ridiculous* Poſitions, which in their Speculation and Practiſe, may not become reduced to a *Civil* Benefit. The firſt and moſt perfect uſe of *Learning* in General, being, without Queſtion, but to form our Judgments the better to direct our will, although our publick Seminaries ſeem, both in their Allowance and Practiſe, to viſe at nothing more then the enfarcing of their Memories, eſteem-

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ing thoſe Compoſitions to contein the faireſt Ornaments of *Learning*, which have the moſt variety of Quotations, adhering more to the Authority of anothers Fame, then to the vigour of their proper Reaſon: ſo that in concluſion the whole Texture of the elaborate work tends but to ſhew a ſpecious Inventory of other mens Opinions, ſcarce ſhadowed with their own.

The Objects of *Learning* eſpecially conduce unto the *common* welfare, muſt of neceſſity either have Reference to the Regulation and Improvement of the Minde, Body, or Eſtate: To Illuminate, Rectifie, and Guide the Intellect, *Letters* preſents us thoſe two uſeful Pieces of *Hiſtory* and *Moral Philoſophy*. To repair the Breaches of our Infirm Nature, *Phyſick*, with the Dependences thereon. To ſecure our Eſtates, the *Laws* Civil and Common. To mannage and improve them, the Rules of *Oeconomy*, and *Mathematicks*, the Miniſter to Arts and Commerce. Preſcribing theſe Limits to the extent of *Letters*, we without Difficulty ſhall reduce *Them* to their proper Inſtitution. And annexing the *Practick* to the *Theory*, as alternate ſubſequents to each other, we alſo ſhall with like Facility avoid thoſe Indiſpoſitions inſenſibly do ſteal upon our Body in the aſſiduous Proſecution of *Their* knowledge, which might perhaps elſe render us leſs capable of *Civil* Action.

2. *Armes* in their Nature have a more viſible Influence to the Eſtabliſhment of a *Civil* Felicity, tending not only to the expulſion of invading Foes, and the ſecuring of extrinſick Commerce. But to the Interiour Reduction of every Member to the Conformity of the *Civil* Juriſdiction, Not inſerting the Propriety *thereof* to the enlargement of the *Civil* Frame, becauſe ſuch extent not properly is inherent (although ſometime coincident) to the *Civil* welfare: ſo that we may hereby perceive three diſtinct uſes in their Inſtitution, *For Defence*, *For Offence*, and *For Parado*: Though leſs civiliz'd Nations did firſt direct *Them* to a happier end, gaining therewith their livelihood. To form which more ſuſceptable of a fair ſucceſs (according to the Rules of humane Sence.) We will appropriate every diſtinct Subject thereof to the moſt apt managers. The *Cavalry* (according to the *Roman* manner) to the *Noble*. The *Infantry* to the moſt *Strenuous*, and the *Naval* Force to the moſt rugged *ſavage Tempers*.

3. *Agriculture* is the Primitive and more eſſential Column that ſupports the Fabrick of a *Civil* Union, inaſmuch as ſuch *Society* may poſſibly ſubſiſt happily without coherence on the preceding appendices. But *None* without *This*. Nature exacting the firſt and moſt powerful Miniſtry, the pretences of the joynt Concurrents being only but *Ornare* to embelliſh. *This* only

to ſupport. And although It may here be inſtanced, that many Nations have happily ſubſiſted only on the voluntary Productions of Nature. Without advantage of an elaborate *Culture*, e're Lux and Avarice had preſum'd to violate *her* Virgin Purity, by their adulterate Reſearches. Yet in Reſpect ſo happy an Exiſtence may (in Reaſon ſeem rather a Conſequent to the Improportionable extent of a ſcarce Habited Soyl, or the indulgent Remiſſneſs of a ſtupid *Society*, then the digeſted contentation of an elevated minde. The active Temper of a rational Soul ſtill prompting her Faculties to the Illuſtration and Improvement of every Subject, falls under the capacity of her juſt Regulation. We may admit the uſe *Hereof* of higher conſequence, to the eſtabliſhment of a *Civil* Welfare: not only in the neceſſary Miniſtry to our frail Compoſure, but in the exact conſtituting a proper Seminary to frame a Body Millitary Aſſiduous Travel extending the Muſcles, ſtrengthning the Nerves, and animating the Spirits to the undaunted encounter of every Danger, Pain, and Difficulty, might properly or caſually enſue the Enterpriſe of ſo honourable a Condition: ſo that we may probably Conjecture, the ſeveral Eclipſes of the *Laconian* Empire (though otherwiſe exactly regular in Education of their youth) proceeded chiefly from their Exemption, Neglect, or Miſpriſion, of ſo requiſite a Function; the burden hereof being totally impoſed on their * Slaves. And though particular occurrents can form no Proof might reach the full Propriety of a general Concluſion: Yet when we ſhall reflect upon the efficacy of this Exerciſe, in forming and Reforming the moſt improper and depraved Conſtitution Nature could produce for ſuch Intention, to the exacteſt Model of a martial Inſtitution, in the laſt, and not leaſt, Eminent * Perſon, lent Luſtre to the *Grecian* Glory. We may (without ſtrict Forms of Argument) conceive how far the influence of our Subject may herein conduce to the eſtabliſhment of a General Notion, which may be farther verified in the *Turkiſh* Inſtitution of their *Janezaries*, the only Strength and Glory of their Armies. Nor ſhould, in Reaſon, the mannaging of ſo uſeful a Miniſtry be ſoly committed to the groſſeſt Capacities, as a ſubject inſuſceptable of a higher ſpeculation, ſince the moſt refined Judgments have endeavour'd to reduce *It* to a regular Preſcription.

Etolians.

Philopemon.

4. *Manifacture* is the Nurſe, Miniſter, and Proof to the premiſed Principles. Without this Graphical Dimenſion all Arts and Sciences are but ſpeculative Conjectures, unform'd Embryons, Doubtful Idea's, even to the moſt elaborate and perſpicuous Pretenders, nor in themſelves but empty Suppoſitions unapt for *Civil* uſage, until a manual operation ſhall produce a more aſſured and uſeful Concluſion in a viſible and effectual Demon-

monſtration. Nor could be figured, in Reaſon, unto humane Sence, why ſuch *Function* ſhould win leſs Credit in a *Civil* Miniſtry, then the preceding Principles, had not the Practitioners, in ſtubbering and corrupting of their Operations, in perſuit of Lucre, ſo abjectly fallen from the firſt rational and methodical Inſpection of their Arts, as to reduce them only to a Mecanick Obſervation. Having prefigured the Impreſſions proper to a *Civil Introduction*, with the principle Objects neceſſarily inherent to the perfect Miniſtry *Thereof*. Order exacts that we ſhould next inſiſt upon the means, whereby the *Civil* Juriſdiction might form ſuch Inſtitution to the publick Benefit; in which we will firſt conſider the *Age* and *Quality* of the perſons receivable to the publick Tutelage diſtinctly with their proper Objects, and their peculiar Seminaries.

1. The *firſt Years* of Capacity to be admitted to a *Civil* Introduction, is according to the common uſage of the moſt Induſtrious *Societies*, *Ætas Puerilis*, *The Age of Purility* (which Naturaliſts define to commence about the ſeventh year of our *Age*) In reſpect that our Facile Nature is then moſt ſuſceptable of a regular Impreſſion. The Orgains then beſt faſhioned to a ready Execution. The time well advanced to a perfect Acquiſition; and the Habits ſo acquir'd, beſt formed to a ſtable Retention: In Reference to which Inſtitution, the Cuſtom of our Climate is herein much impeachable, ſuffering our youth, in a ſenſleſs or indulgent Reakleſsneſs and Remiſneſs, to be well advanced in their *Age*, ev'n to ſixteen or eighteen years, e're they allow them fit to addreſs themſelves to *Civil* Action, judging the time preceding uſefully imploy'd in perſuit only of a *Tongue*, ſcarce uſeful to their following purpoſes, which if materially thereto conſequent: If methodically, ſeaſonably, and induſtriouſly perſu'd, might in far greater a Perfection be attained in one Annual Revolution. And although ſuch preſcribed *years* may probably ſeem to reach a Capacity of Initiation in Exerciſe of other Objects, but not in the uſe of *Arms* till doubled in the number of Preſcription: yet may their uſual ſports be ſo diſpoſed in the vacancy of other undertakings, a ſtrenuous and undaunted Aptitude may thereby become formed in their ſupple Nature, to render them in future more ſuſceptable of that Excellence is requiſite to ſo penible and perilous an Imployment.

As to the *Quality* of Perſons in General, we cannot (with Reaſon) in Reference *Thereto*, admit any Member of our *Civil Union* to a Priviledge of Exception from publick Action; inaſmuch as a mutual Community, is as neceſſary to the forming of a common Felicity in the *Civil Structure*, as in the *Natural*; no piece thereof falling from a reciprocal Miniſtry, without Obſtruction or Corruption to the whole *Frame*.

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In particular, we may reduce the *Qualification* of every Subject of our *Civil Society*, in these Distinctions; *The Rich, The Mean, The Poor:* Under the *first Difference* we may infer Those, who are by the Advantage of their Birth, or otherwise visibly intitled to an opulent Succession, though the Capacity thereof reach but to a decent subsistence. Under the *Second*, who from their Parentage may expect some small Endowment to the Introduction of a *Civil* Profession, but not so large a proportion, might yield a visible Foundation to a necessary support, without concurrence of their future Industry: Under the *Latter* such as have no visible adherence to any Faculty might admit them to the Introduction of a *Civil* Function.

To the *first Qualification*, we will appropriate an Object of Industry, suitable to the Advantage of their Fortunes, which potentially forming in them an habitual Tranquility of Minde, and a voluntary Repose of Body, may lend them a more facile Access to *Spiritual* Endowments: Nor is It consonant to the Dignity of *Their* Nature to become in any a prostitute to abject Lucre; from whence 'tis probable such *Sciences* have held their splendid Attribute. *Liberal*, rather in Respect of the Acquisitors freedom in communicating their Efficacy to the Benefit of others, then from enfranchising an abject Spirit in a generous Elevation; or a servile Fortune in an honourable Illustration. Such unintereſſed Practises in publick Persuit of the Laws for the Decision of Private Rights formed the Antick *Romans*, worthy and susceptable of their ensuing Regency and Glory. Such Enlargement of Grace in their Physical Dispensations, qualified the *Arabian* Princes with more Dignity then their Diadems. Such zealous Ministry in publick Enlightning Sacred Mysteries invested *Furies Rabbies* with more reverence then e're the awful power of Rule could reach unto. *Letters* have lost their Purity and Esteem, since but persu'd for Mercinary ends: but yet confine we not any person under *This* Distinction, to the exercise only of these Objects. *Letters* may probably so enlighten the understanding, and confirm the Resolution, that after a competent Time of voluntary Subjection in the use of Arms, *These* only may become exact Commanders in the Martial Frame.

2. To persons under the *Second* Condition, we have designed only the use of *Manufacture*. In respect (as is propounded) they are visibly adherent to such a Proportion of a *Civil* Faculty, as may lend them a Capacity both of the Initiation and Practice of their Functions, many occupations may seem requisite to the Composure of a *Civil Structure*, are not exactly specified under *This* general Distinction. But when we shall exclude all Debutors of Commodities from Publick Trade, but

but only ſuch as fram'd them: or at leaſt (if divers hands, differently qualified, were needful to their Supplement) who moſt uſefully contributed to their laſt faſhioning: As alſo forreign Trade ſhall be reduced only to Receipts of publick Commerce. We ſhall have ſufficiently figured our intention under the Extent of this only *Attribute*. Other forms of Commerce tending but to the enhancing of Commodities to the Advantage only of Particulars, who, like idle Drones, ſuck all the Benefit thereof from others painful Induſtry, which only had conduced to their forming.

To Members of the *Laſt* Diſtinction (having attained the years of *Civil* Capacity, either under their Indegent Parents ſterile or declining Induſtry, or under their native Parochial Tutelage) we properly may aſſign a double Miniſtry, forming their Limbs firſt ready to a ſtrenuous Execution, by the aſſiduous Labour of a toyling *Culture*. Their Bodies alſo thereby hardy grown againſt the exterior Injury of the Seaſons; and their Conſtitutions apt to ſuffer, without prejudice, ſuch Aliments, as the urgency of time may poſſibly, in future Occurrents, ſometime have recourſe unto. Who thus become exactly endued with theſe Habits in perfuit only of *This* Object, we may, on the Maturity of their years, from thence (by *Civil* Ordinance) tranſplant them to our *Martial* Seminary which conſtituted only of *Licentiats*, ſuch as become aged in their active ſervice are withdrawn to an eaſier Duty, and inſtituted only for *Parade* or Ornament to the *Civil* Frame; they may with much delight, in ſo expert a Society, in one Annual Revolution attain to ſuch Dexterity, Facility, and Grace in Exerciſe of Arms, as ſhall be requiſite to the Succeſs of future Action.

As to the conſtituting ſeveral *Seminaries* proper and peculiar to the attaining of theſe Objects, they only can eſtabliſh't be by Order and Injunction of the *Civil* Miniſtry, leſt the Remiſſneſs of Indulgent Parents ſhould render ſuch an Inſtitution frivolous. To the Regulation of Perſons under the firſt Quality, inſtituting well compoſed *Academies* in every County, to avoid the numerous Affluence of Aſſociates, which, ſwelling to a Multitude, might in Diſorder or Neglect, render them leſs capable of an exact Inſtitution.

Particulars under the *Second* Intimation, purſuing in one General, Objects indefinite in their Nature, can no way be reduced to a limited Preſcription; we will therefore leave them to the Liberty of a voluntary Election, in Reſpect of their Nature, provided it may be eſſentially material to a *Civil* uſe: and in the manner, according to the due proportion of ſuch time, as may ſufficiently form their Hands, and enlighten their underſtandings in the perfect Myſtery of their Art.

Persons, under the *Latter* Inference, may in their first Introduction to a *Civil* Action, be committed to the Provision of our Justices of Assize, who in their usual Conventions may assign *Them* to the Tutelage and Instruction of such Masters, within their several Jurisdictions, as shall be noted of Capacity to entertain them in assiduous Action proper to our premised Object, *Agriculture*. Till therein reaching the due term of Maturity for Military use, they may be thence transplanted to our prementioned Society in *Armes* intended only but for Ornament to the *Civil Frame*; where passing their Probation, they become fit undertakers to persue more weighty Enterprises.

The several Objects of the Law, in Reference to the Improvement of the Internal, or Intellectual Faculties, are contained under two Principles, The Extralegal *Reward of* Vertue, *and the* Extralegal *Punishment of* Vice.

XXXIV. *The Extralegal Reward of Vertue.*

HAving exactly fitted the Members of our *Civil* Body to an apt Progression (by the Preservation and Improvement of their *Natural* Faculties) e're we display the Objects of their Course, It will be materially useful to a perfect success in our undertaking, to persue the Improvement of the Interior or Intellectual Faculties, by encouraging the Transactors with the Glory and advantage of Achiving, or deterring with the Reproach and Dammage of their failing in our Enterprise, so animating or restraining them, that a generous Emulation might prompt them with more Ardour to pursue the publick Benefit included in their own, And though our corrupt Nature may seem to need no other Motive to the plausible persuit of our Functions, then our own Passion for ensuing Gain? Yet the Relishes of youth (the aptest seasons to a perfect Institution) are not yet fitted to the Baits of Avarice; or if they were, the publick Test no small Induction is to the Enlargement of such Acquisition; whence probably is formed that Notion, *Honos alit Artes, Honor is the Nurse of Arts:* Why no *Civil* Law propounds a Benefit or Advantage unto any for the Intended or the Perpetrated Good; but the Infliction only for the Evil acted,

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is probably, in Respect, That Virtue in her self is held her own implicit Recompence, it being a Blemish to her Purity to have any Object forth her proper Sphere: which motion only figures her Distinction: Nevertheless, on these *Two* Pillars was the sacred Law erected, though but the *Latter* only therein expressed. A *Law* without this implicitly in it self, seeming but a servile Imposition; and having *This* explicitly in it self, a mercinary Exaction. To figure which Mystery, though the General Clauses of the Sacred Law were published, yet the particular Covenant, Ground, and Pledges of the Law were secretly, with the Law, unfolded in the Ark, which none but the chief Ministers to the Law approached, and every curious eye forbid therein to make Inspection. Of such Nature should the Investure be of Vertues Dignity, Indefinite and immaterial, that her Actions being free and without propounded Compact, might render the Purity of her sources to be suspected neither vain or Mercinary. Equivolent to this Rule was that prudent Generals Dispensation in his Ministry, who to dignifie the vertue of his Magnanimous Courage, to whom they were indebted for two Victories in one day (on his generous refusal of the spoil designed for his Recompense, as too mercinary an endowment for a Noble Temper) *presented him his Horse for Martial Service, with the Caparison of Eminence belonging to his State, and qualified him with the Title of that* * *Place, his valour had acquired to the publick Benefit and Honour.* And although such a procedure may possibly engender private Envy and Grudges to the forming of *Civil* Discord to the publick Prejudice: yet such Inevitable and Corrupt Productions spring but from the Rankor of abject and degenerate Spirits. Mindes elevated and refin'd, receive from thence (with *Cato*) a more noble Resentment, *Who failing in his Pretences to the publick Ministry, conferred by Election on his Competitor, was so far from a distaste thereat, that he wished that all his fellow Citizens were justly in that, and in all things else to be prefer'd before him.* It was this Glorious, Lost, Forgotten, and mispriſed Idea of the Soul, acquir'd to antick *Rome*, her Dignity and Extent. The publick welfare in general is but remisly pers u'd, nor the particular Members thereof but faintly supported. Where the Prescription of the Law extendeth our Devoyr only to the performance of our Contract, and not to impair anothers Property: And notwithstanding It agrees not with the Nature and Dignity of so illustrious an *Attribute*, to borrow an Original from any Retribution, or exterior Advantage whatsoever. Yet shall that Prince or Magistracy, which but neglects (nay nicely not encourageth such eminent Proceedings) never attain the Glory or Felicity of a flourishing *Society*.

* *Coriolanus.*

To avoid the Hazzard of which Consequence, we will proceed

ceed yet farther to distinguish the Nature of our *Subject*, with the several Objects: and the Capacity of the publick to improve the Effects thereof.

The General Objects *thereof* are either *Publick* or *Private*. The particular Objects in Reference to the *Publick*, may be inferr'd in these Distinctions, *Martial*, *Civil*, *Natural*, *Mecanick*, and *Munificent*: nor yet in Reference to Particulars, is any Object thereof rightly instanced, which may not be reduced under the extent of these Principles: as also sometime possibly in one Subject may they meet a Complication in their Nature.

In the Distinction of the *Martial*, we may imply such exploits in *Arms*, either *Offensive* or *Defensive*, as in a Lawful War peculiarly conduce unto the Publick Benefit and Honor, beyond the Simple Intimation of Devoir inherent to our charge. According to the Pattern of the *first* Difference, was *Coriolanus* Atchievement, *Who in the close pursuit of his Enemies, entred the City with them, and with the Aid only of a few that followed him, reduc't it to the Roman Government. And while yet freshly bathing with the Sweat of his Toyl, and the Blood of his Foes (having secured the City) returned to a doubtful Conflict without, betwixt his Party, and their Adversaries, both Ignorant of what had passed, where magnanimously fighting for his Countries Glory, both Victories were imputed solely to his Valour.* A Parallel to the *Latter* Distinction, was that *Romans* * Adventure, *Who, with his Company, persued closely by his Enemies to the entrance of the City, cutted that part of the Bridge, was betwixt him and his Companions, to be cut off; That he alone making a head against the fury of his Enemies, might so afford them time to enter for their own Security, without a farther hazzard to the City: which done, he (with his Arms in his hand) leaping into the Mote, surrounded it, swum to the Banks thereof, where his Associates Received him with Joy, and Admiration of his Vertue.*

* *Horatius Cocles.*

Nor truly can it be denied, but that as we have lent this Distinction the Precedency in order, so both in Right of Antiquity and use, *It* seems herein to challenge the Preheminence, not only as the Founder and Establisher of the *Civil* Order, whence issueth the Capacity of the *Rest*; but as the most penible, dangerous, and highest Adventure to the undertaker: which seriously considered, we may undoubtedly affirm, the real Source and Element of Dignity most properly is seated in *This* Exercise, as appeareth in the Nature and Signature of the Primitive Institution of Honour on *Escutions* Antick Pieces of *Armory*. And in the successive Additions *Thereof* in several Orders of Knighthood; although both the one and the other have been promiscuously conferr'd without a Reference to any such Distinction: yet hath It not been without Blemish and

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Detraction of the Grace Intended in the Inſtitution, whence probably hath iſſued the Miſpriſion and Inefficacy of the Ordinance, eſpecially when the Corruption of ſucceeding Ages had proſtituted her higheſt Attributes to a venal Acquiſition, or other intereſſed Interceſſion. It were very requiſite therefore (that every *Qualification* might reach the Intention of the Inſtitution) to form ſuch Illuſtrations of Honor proper and peculiar to the Nature and Diſtinction of the Fact. That the more noble Conſequences might not be ballanced in eſteem with the Leſs, nor the Leſs with the Greater, to the Envy or Miſpriſion of the Inſtitution. And farthermore, that ſuch Inveſtures of Dignity might have no other Tract of Acquiſition, but the Free Grace, Acceptance, and Acknowledgement of the Inſtitutor, in Reference only to the due Merit of the Acquiſitor. Otherwiſe the uſe and Benefit thereof will ſoon be fruſtrated and void.

Theſe Ornaments of *Civil* Diſtinction may probably appear a Vain, Ridiculous and but an empty Gratuity, unbecoming the Majeſty and Magnificence of a Prince, or State; not accompanied with more eſſential Inherences: Yet rightly conferr'd, they are but Ceremonious Pledges of the enſuing Neceſſity to enlarge their *Civil* Faculty in future Employment to the publick Benefit: Notwithſtanding *They* may poſſibly meet in ſuch a Subject, whoſe Indigence might exact more timely and material Gratuity, elſe ſuch intended Grace might prove to them both Burdenſome and Reproachful: which Inconvenient might happily be ſupplied from the Common Treaſury in ſome Annual Penſion. Provided, that neither the Proportion nor Continuance thereof, had other Reference then the due ſupport of that Dignity conferr'd, until ſome Accident might form an Opportunity to tranſact like Advantage on them in ſome uſeful Miniſtry moſt proper to ſo eminent a Capacity. Otherwiſe, if ſuch Munificence were more General or unlimited, The Treaſury would either thereby become ſo burdened, or exhauſted by the continual Affluence of Pretenders, that either new Sources thereto muſt be derived from the Subjects by a general Levy of Impoſitions, to the publick Prejudice, or elſe the Majeſty of a Prince or State become eclipſt through Penury and Want.

Under the Intimation of *Civil* Offices to the *Publick* extending the ſimple *Latitude* preſcribed to our Charge, may be compriſed the Council or Advice, that with undaunted Integrity makes either Propoſition or Oppoſition againſt the Purpoſes, Deſigns, or Practiſes of a Prince or Populace to the Advancement of a Common Good, or the Declining of a *Publick* Damage: though to the hazzard of Eſtate, Liberty, or Life.

Such was *Regulus* Advertiſement to the *Senate*, *When they inclined to conclude a ſhameful Peace with their inſulting Enemies in favour only of his Safety, become their enlarged Interceſſor, on his Faith, failing thereof to return:* which reſolute Perſeverance in a Publick Convention, may ſometime poſſibly paſs under Cenſure of an incautious or corrupt Obſtinacy, that with ſingularity in form tendeth but to foment inteſtine Faction. But the Grounds, Inherence, and Conſequence of ſuch Debates examined, will evidently diſcloſe the Nature of the Intention: The *Former* uſually proceedeth with more Modeſty and Sufferance. The *Latter* with more inſolence and Paſſion. *That* but endeavours to enform or to enlighten his Pretences to an equal Reception: *This* to impower them to a ſervile Impoſition. In private Conventions ſuch Procedure may ſeem but to decline that Intereſt for which peculiarly the Members thereof were united. Yet rightly underſtood, it may become a *Paradox* to affirm, that Prince or State can be endued with Capacity to receive any real Advantage involved in a *Publick* Prejudice, or disjoyn'd from a *Publick* Benefit; though ſuch a Notion hath unhappily paſſed for a general Poſition. Whereby, Princes too frequently reſent with high Indignity Repugnance to their will, corrupted by the Adulation of adulterate Gloſſes: But a prudent inſpection will from enſuing Conſequents ſoon collect the Error of their Apprehenſion: And Honor that Integrity, adventureth rather to incur the hazzard of his Princes Favour, then wilfully to betray his Maſters Intereſts. Such a reſentment was plauſibly expreſt by one of our illuſtrious Princes, *Whoſe youthful Licentiouſneſs (during his Fathers Reign) being gravely checked by a Civil Magiſtrate, proceeded to that heighth to ſtrike him; for which, he being by the Magiſtrate committed, He after for ſuch Procedure, was by him (ſucceeding to his Fathers Throne) moſt highly dignified, acknowledging he worthily had therein maintained the Dignity of his Laws.*

3. By Inference of a *Natural* Beneficence, we may imply ſuch genuine Diſcoveries of Natures Myſteries, as may conduce unto the ſafety or Felicity of the *Civil* Union, which either the Avarice or Envy of others had concealed, or their own Induſtry or Experience hath diſcloſed. Of this Nature was *Hypocrates* overture to the *Publick, Who that they might eſcape the Ruine of a raging Peſtilence ſurrounded all the Confines of their Territories, adviſ'd them timely ſet on Fire the interjacent Foreſts*; whereby the Air being purified, his Country was preſerved from the danger of an encroaching Contagion. In promoting ſuch Advantages to the Publick Benefit, Cuſtom hath ſo corrupted the uſe of Induſtry, That it will become neceſſary to lend *This* and the ſucceeding Diſtinction, a more material Compenſati-

penſation, beſides the Grace inherent to a plauſible Reception, then probably may agree with the exact Definition of the Nature of our *Subject*. All Arts and Sciences receiving now no other vigour, then what from abject Lucre is inſpir'd.

4. In perſuit of our Order, enſueth the *Mecanick* Miniſtry to the Advancement or Preſervation of the *Publick* Intereſt; which notwithſtanding *It* may ſeem inferiour to the *Reſt*, as a more proper Subject to leſs elevated Capacities; yet in Reſpect *It* is immediately neceſſary to moſt uſes viſibly inherent to the due ſupport of the *Civil* Frame. We equally may hereto lend a conſiderable Reflection, not weighing the excellence of *her* Nature, either in the Curioſity, Rarity, or Delight of *Her* operation, but ſoly in the material Conſequence and uſe thereof; eſſentially conducing to the *Civil* Welfare. Of this Quality in the Military practice was *Archimedes* Engines for the Defence of *Syracuſa*, againſt the Fury of the *Romans*. Or what other, in *Civil* uſes, may be produced againſt the ſterility of the Soil, Natural, or Adventitious, or what otherwiſe tend to the Improvement of a National Commerce. But ſuch hath in our Age, been the unhappy Diſpenſations of Publick Grace, That thoſe Arts have received the moſt eſſential Indulgence and Encouragement, That moſt licentiouſly have conduced to Vanity and Lux, contrary to the Reſentment of that generous Prince, *Who prudently weighing the uſe of every ſingular Faculty, to him that with infallible Dexterity, could caſt a Grain of Millet through the Eye of a Needle, ordered for Reward a peck of ſeed, he might not want Materials to keep his Skill by frequent Exerciſe.* On this Deſign of Publick Benefit, are grounded the Pretence of moſt *Monopolies*; it ſeeming to a Prince moſt equitable, that every man ſhould ſoly reap the Benefit of his own Induſtry, or Invention for a time preſcribed, that the Fruition thereof may in future be returned to the publick uſe. But ſuch Motions might poſſibly meet a more plauſible entertainment and a happier Iſſue. If the pretender were enjoyned to attend the Teſt of their own Propoſition, in an approved Conſequence, and totally reſt diſjoyned from all peculiar Benefit therein, depending only on the favour of the Magiſtracy, to make an equal Compenſation, agreeing to the Advantage of the Iſſue.

For cloſure to our Publick Objects of Beneficence, ſucceedeth the Diſtinction of. *Munificent*; which in honour to the Attribute, we may ſeem in order here to lend but an improper poſition, in Reſpect, that all the former Objects may poſſibly be masked with other private or peculiar Intereſts; whereof *This* altogether reſts only unſuſpected, imparting voluntarily of their Own, without a Reference to any Retribution, or peculiar Benefit whatever. Yet nevertheleſs, ſince commonly ſuch Diſtributions

butions proceed rather from the Excreſcence of a private Store, then ſimply the Benignity of a Generous Inclination, wherein is nothing really of our ſelves, or hazzarded, or communicated, and what is ſo diſpenced uſually, but the Fragments of what our Frailty will no longer ſuffer us to enjoy: ſo that the eſſential Circumſtances of the Motive clearly conſidered, we rather, in favour of the publick Intereſt, have lent ſuch a *Diſtinction* here, a more noble Aſſociation, then properly is inherent to the Nature *Thereof*. Nor can we thereto yield ſo eminent a Qualification in Honor, as might induce Another to an equal Emulation of *Munificence* (where the Donor ſcarce ſurvives the Induction of his Act) more then what the dull Letter of a Monument barely will infer: But to dignifie that Benignity, which ſhall, with a well compoſed Minde, caſt from his Senſe the Charming Miniſter to Vanity and Lux; while yet in the Capacity of Fruition, to conſtitute the reviving Affluence thereof upon the languiſhing Miſery of the Indigent, we no way can afford too illuſtrious an Inſcription to *His* Merit.

2. Before we enter to treat of the *Second* General Object, *A private Beneficence extending beyond the common preſcription of a Civil Devoyr.* Two Arguments, thereon depending, will require a more diſtinct ſolution. *Firſt*, whether the *Publick* may immediately be concern'd therein (remotely *It* alwayes of Neceſſity muſt.) And whether without ſuch Reference the *Publick* may be concern'd to agitate thereon: The *Firſt* Propoſition may, without Difficulty, admit of an Affirmative. The *Latter* not without ſome Intricacy. Inſomuch as private Beneficence may ſometime be conferred on a private Perſon, imployed in a publick Uſe, *Military*, or *Civil*. And in that ſame Degree oft honoured by the *Romans*, who had deſign'd a Crown of Triumph unto him, that had in publick Conflict ſav'd the life but of the meaneſt of their Fellow Citizens; whereby the Band of Unity became amongſt them far more ſtrictly, vigorouſly, and intirely ſecur'd to give a happy repulſe to the fury of their Enemies. But whether the *Publick* be ſo far intereſſed, as to cenſure of the unequal Reſentment of a *Private Beneficence* betwixt Party and Party, is a Subject yet undetermined. If example may bear authentick weight to an Aſſertion, we may produce ſufficient evidence from the Records of many *Civil* Juriſdictions, wherein *It* by Preſcription of the Law hath been allowed actionable, as a *Private Plea*. But in more ſevere Governments, proſecuted by the *Publick* as a Capital Delinquence: As may be inſtanced from the *Athenian* Judicature, *Where* Callias *was publickly arraign'd for his Ingratitude to* Ariſtides, *ſuffering Him and his Children even to periſh through Indigence; by whoſe peculiar favour he had attain'd*

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an eminent Acquiſition. In Objection to the procedure of the *Firſt* Pattern may juſtly be alledged, that it is againſt the very Nature of a perfect Benefit, ev'n but to expect, much more to exact a Reſtitution. And he that formeth but a Repetition of the Circumſtance of his *Munificence*, blemiſheth the Grace of his Benignity. But he that reduceth *It* to the Reproach of the Receiver, perverteth the Nature of his own Intention. In Reference to the *Latter* Rule, though *This* may be alledg'd no proper Subject for the Inſtitution of the Law: foraſmuch as neither *Publick* nor *Private* prejudice enſueth the Mecogniſance. *This* not endammaged in regard the freeneſs of the Act taketh away the very ſhadow of a Pretence. *That* not impaired in Reſpect the Conſequence *Thereof* not immediately reacheth the *Publick* Intereſt: collaterally it may, in that the Impudence of the vice, not checked, may probably make ſo great a Breach in the moral Conſtitution of our *Civil* Union, as to introduce a common Barbariſme.

As to the farther Diſcuſſion of our ſuſpended *Subject*, *A Private Beneficence*; the Nature thereof (under the ſame extent of Latitude in Devoyr, as formerly expreſt) may ſeem inferior to our former General Object in Excellence conſidered in Groſs; in that, *Bonum quo communius eo melius*; but taken in the mutual Coherency of Parts, of a far greater Efficacy to the Structure of a happy *Union*. To a *Publick* Advantage of *this* Nature rarely is encountered Matter but to work upon, and poſſibly more rarely meeteth a Capacity to entertain *It*. To communicate a *Private Beneficence* every Place, Time, and Perſon affordeth us both Subject and Ability in one kinde or other; ſo that rightly diſtinguiſhed, the moſt adviſed Legiſlators have conſiderately endeavoured on *This* Baiz to erect the Felicity of their *Societies*. But how the *Publick* ſhould diſtinguiſh of ſuch ſingular Aids totally to be divided from all peculiar References, or how cleerly diſcerning their Nature, duly to cheriſh and approve them in an honourable Reception, is a Conſequence not unworthy the Reflection. For ſolution to the firſt Branch of our Propoſition, we may infer, that he juſtly deſerves to fall unpittied, by a Common Decree, under the burden of a future Miſery, who ſhall ſo far become reſtrained by the ſhame of his own Indigence or Impotence, as to ſmother in his ſilence either to God or Man, the immediate means to his ſecurity. In Reference to the *Latter* Poſition may be aſſerted, that to ſuch Manifeſtation of the Act, may juſtly follow an exemplary Encouragement from the *Moral Cenſor*, with due Applauſe to dignifie the Action.

It may here probably be objected, that having propounded our *Subject* in General, we have as yet omitted, clearly to

handle all the Dimensions thereof; insomuch as we have yet only consider'd *Vertue* in her Communicative Faculties; whereas *Vertue* frequently wanting such materials, may rest confin'd, and only but concentrate in It self. In answer, Although It may seem ev'n against the Nature of *Vertue* to be indu'd with an incommunicable Essence, since both in Example and Precept, she needeth not to borrow the Endowments of Fortune to illustrate her Expansion: but admit the Influence of her Graces so powerful and absolute from her own proper Nature: Nevertheless (to the common reproach of our Age be it attested) *Vertue* wants more material Ornaments to plead for her Reception. Who adhereth to the Counsel of the *Wisest*, if Poverty o're shadow the Consultation, and be his minde never so impenetrably compos'd against the various and continual Batteries of an impetuous Adversity, if obscured in Indigence, Who regardeth or distinguisheth his *Fortitude*. So both his *Justice* and his *Temperance* seem smothered in his Impotence. But happier Ages lend us more exemplary Presidents from their Felicity, where we may observe, that in the most flourishing *Societies*, *Vertue* so humbly seated, did never want her Dignity, as appeareth in the Antick Grecian Glory, extracted from the Justice of *Aristides*. The Prudence and Moderation of *Phocion*. The Fortitude and Magnanimity of *Epimenondes*. Nor shall we need here farther to trace a Prescription to qualifie such eminence with Honour, since we already have in the Inception of our Treatise thereon rais'd the true Capacity to our *Ministry*.

XXXVI. *The Extralegal Punishment of Vice.*

HAving lent a competent weight to one extream of the Beam whereon our *Civil Union* chiefly doth depend, in dignifying *Vertue* beyond the due Intention of the Law, we may persist to cast an equilibrate Counterpoise in the opposed Ballance: In the *Prosecution* of Vice beyond the full Prescription of the Law, that from thence an harmonious uniformity may issue from the Texture of the *whole* Frame. *Vice* is the General and Principle Subject all *Civil Societies*, by rigour of their Laws endeavour to suppress, as the only promotor to Sedition. But few with so exact a Circumspection, as the Consequence of the Subject may require to the due modelising of a perfect *Society*, in that, *Vice* thereby becomes impeachable under the Prescription of anothers Prejudice, not simply under Notion of *Its* proper Nature. As though the germinating seeds of *Vice*, or the Effects *thereof* could be contained long within the Limits of a peculiar Continent, or the whole Body long preserved

ſerved ſound, where the Members Thereof are already in themſelves corrupted: To avoid which Danger, it were materially uſeful, to take away the very Appearance *Thereof* ev'n in the firſt Eruption. And leſt the Indulgence or Neglect of Parents ſhould farther yet the growth *thereof* in their licentious Iſſue, e're they become of due Capacity to a *Civil* Correction, 'twere neceſſary ſuch Remiſneſs in them were either check't by Fine, or Publick Infamy.

To attain yet a more clear Diſcovery of the Nature of our *Subject*, in Reference to our *Common Welfare*, we will reduce *It* with Relation only to theſe Principles, *Divine*, *Civil*, and *Moral*.

Under the Intimation of *Divine*, we chiefly may compriſe Enormities are perpetrated againſt God, or his Sacred Inſtitutions; which being the Supream Authority, from whence all humane power pretends to be deriv'd, ſhould more ſeverely be preſerv'd from violation, ev'n to the due Conformity of the ſubordinate *Miniſtry*. And although we may in this Inſertion, ſeem to digreſs from the Intention of our preſent *Treatiſe*, as an improper Object to our *Civil Miniſter*, extending far beyond the Latitude of his Faculty: yet, inſomuch as the Remonſtrances, Menaces, or Exhortations of the Divine Miniſter, are unto Carnal and to ſenſual Spirits but an ineffectual Procedure to the due Reſtraint of our common Corruption, where the *Civil Miniſter* becomes not coadjutant to rectifie the Diſorder, we may conclude the inconſiderate Neglect Hereof muſt inevitably form the *Civil Power* leſs ſucceſsful in her *Miniſtry*, declining totally to agitate on the Infringement of Superior Orders. The Fundamental Eſtabliſhment of their own. The firſt and higheſt Degree in ſuch Delinquence, is *the denying of his Eſſence*, who of free Grace and Goodneſs imparted to us ours, which Diſclaimour moſt juſtly may deſerve the Forfeiture of his Tenor.

Subordinate to *This*, is *the Derogating from his Sacred Attributes*, which being properly and immediately inherent to his Holy Eſſence, more opprobiouſly and maliciouſly endeavoureth in Contempt to deny that ſupream Power, he is enforced to acknowledge: Nor can ſuch a preſumptuous Repugnance againſt the inward Light be reputed in humane ſenſe leſs hainous *then* the former.

Contingent to *Theſe* is *the Prophanation of his Name and Sacred Ordinance*, either in Licentious Diſcourſes or Actions, tending irreverently to the Miſpriſion of his adorable Eſſence, or his Holy Rites: which extravagant inſolence may juſtly merit to be ſuſpended from the Priviledge of a *Common Union*.

Collateral *hereto* is *the ſolemn Invocation of his Sacred Name to the Atteſtation of a matter falſe, or falſified*; which without Refe-

Reference to anothers Intereſt, as the Signet only of our own ſerious Reſolutions, is a Crime of a moſt reproachful Levity, which requireth before God and Man, a penitent and high ſubmiſſion. But wherein others Intereſts immediately are concern'd a Crime of higheſt Treachery: In Reſpect ſuch Aſſertions give Rules unto the Law It ſelf, which is our common ſafeguard. But this Branch of our *Subject* falling under the Preſcription of a *Civil* Penalty. We ſhall not farther here inſiſt to treat upon, Reſerving the Perſuit Thereof to a more proper and peculiar order.

Farthermore we may yet hereto not improperly inſert the *Common* and *too frequent uſage of His Name in vain*; which heedleſs Cuſtom forming into Habit, inſenſibly detracteth from that awful Reverence, ſhould be revived in us on every explicit Intimation of *his* glorious Diſtinction. Nor can a more effectual Reſtraint be formed to ſuppreſs ſuch unadviſed Imprecations, then a private Reproof or a publick Reproach from *His* peculiar Miniſter.

2. What may enſue from the Licentiouſneſs of *Vice* to the Infringement of the *Civil* Order, we here may properly omit to treat upon: inſomuch, as the general Inference *Thereof* hath herein only Reference to the Impeachment of anothers Intereſt directly and immediately. A common Principle to the Deciſion of right, which may more clearly be enlightned in the peculiar Order, we deſign to the Diſcuſſion of each Branch thereof, only we may here generaly Note, that ev'n therein moſt Laws too ſtrictly oft adhere more to the litteral formalities of a Plea, then the eſſential Reſult of a Proof.

As to the *Moral* Diſtinction of *Vice* which fall not under Latitude of a *Civil* Penalty, being the peculiar Object of our preſent diſcuſſion, we will yet more intentively endeavour to reflect upon.

Unity and Concord being the chief Objects ſhould guide us to the laſting Eſtabliſhment of a happy *Society*, it will be materially pertinent in the ſearch thereof, to viſit the primitive and ſecret underminings of a mutual Agreement, which may undoubtedly be diſcovered in the firſt ſubtle Practice of Mans common Adverſary, under the Figure of a concealed *Malice*; whence *This* privy Ranchor ſhould take Original, may probably be judged from a repining Envy, contracted by the ſenſe of a Diſparity in their preſent Conditions. *This* ſeed of common Sedition from thence ſcattered into the Heart of man, to finiſh in our overthrow, what This Impoſture had ſo effectually commenced, by a perpetual commotion in our *Civil* Communities, hath enforced the exacteſt Conſtitutors of a *Civil Society* (not being able to extirpate the Roots *hereof*) utterly to remove

those Causes from amongst them, which might conduce unto the Birth or nourishment thereof, as *Licurgus in taking away the use of money*. And the primitive * *Romans in the equal Partition of their Territories*. But the Corruption of succeeding Ages falling from so happy Principles of *Union*, require more Circumspection in the managers of *Rule*, to the expulsion of such venome from the *Civil Frame*: which better to distinguish, we properly may lend to it this Signature. *Malice is a secret and violent Transportation of the will unjustly to procure Evil to Another, may often to our proper Detriment, proceeding from the affected Advantage of Anothers Endowment.*

* M. Curius.

Sundry branches, some more or less immediately issuing from *This* stock, become more or less prejudicial to the *Common Unity*, as the Degrees of virulence lend Influence to the first Contraction, which may clearly be distinguished in the common Consequences of *Slanders*, *Calumnies*, and *Detractions*. Others more remotely, as *Incivilities*, *Affronts*, *Disgraces* in general, *Scoffing*, and *Deriding*: All which particulars we severally will examine, more truly to discover the full weight of each irregular Motion, may form a Discord in our *Civil* Harmony.

At first Inspection it may appear an Impropriety in our order, here to insert the Treatise of a *Slaunder*, being a *Subject* propounded by the Law within the Limits of a *Civil* Penalty, but with so strict a Reference to the *Letter*, that few Degrees of Obloquy will, under the common Rules thereof, fall within the exact Distinction of a Scandal: as if the nice Formalities of the Law intended but to sport with private and refined Infamy. To supply this Default in a *Civil* Prescription, we will endeavour yet more amply to define the Nature of *Slaunders*, *Calumnies*, and *Detractions*, with their ensuing Damages to a *Civil* Union, lest that their proper and implicit Sences should become confounded under the Notion of one common Distinction. A *Slaunder* here intended, *is a false suggestion against another legally extending to a Criminel Matter.*

Calumny, *A false Aspersion, extending only to the* Civil *prejudice of another.*

Detraction, simply inferr'd, *is a false Supposition obliquely insinuated to blemish others Honour or Applause.*

1. How material Breaches in a *Civil Union*, may ensue the sufferance or the slight Restraint of *Slaunder* (though taken in the obscurest and remotest Latitude of Sence) may evidently be conceived, when we shall seriously reflect on the inefficeable Impressions are secretly left behinde the Publick Discussion *Thereof*, in the unresolv'd Conjecture of the Auditors: So that though the mischief of the suggestor be clearly convicted, the innocence of the Plantiffe remains not fully vindicated, where-

by unequal Resentments become fomented, to prosecute such illegal Reparations, as probably may extend to the extinction of many *Families*, if not unto a general Commotion in the *Civil Frame*. Nor can the extent of a Legal Verdict, directed only to a pecuniary Amercement, become an equal compensation to the Injury. Where the malicious Impeacher of anothers Fame remains unbranded with such Publick Infamy, may render him more obvious to a *Civil* Incapacity.

2. *Calumny*, though formed from the same Original, makes slighter Incursions on our *Civil* Fame; yet may the least Degree *Thereof* not pass the Burden of a *Civil* Censure, since our common Reputation is the visible Foundation to our Livlihood, or *Civil* Faculty: So that the secret and frequent Expansion *thereof* meeting with the Corruption of our humane Nature (prone to exagerate the very shadow of anothers Infirmity) may possibly reach the extinction of the Natural Existence.

3. *Detraction* takes a lower flight, by remote Tracts to winde the Matter to as high a pitch, lessening *It* self till *It* become not obvious to the sence; which with more Art disguis'd, requires more Art in the Discovery. *Her* Traces hold no uniformity, but often shift the shadows of the Scene to trouble or confound the Appearance of the Matter, with an Ambiguous or opponant Light. So that the Interessed not only hereby hazzardeth his present Advantages, but becomes unequally impeacht of Evils not in question. While the envious Imposture casts the Contagion of his Venome, without the Danger of Contraction. From hence (though more remote in Nature, more sudden in the Operation; and consequently more considerable in the Circumspection) proceed Acts of *Incivility*, as *Affronts*, or *Disgraces* in general, *Scoffings*, and *Deridings*. The malignities of the *Former* moving more slowly, afford a time to lend the *Civil Minister* a Capacity to allay or stop the vigour of the Infirmity e're it attain the height. *These*, like Tinder, catching fire at the first Eruption, seldome become extinguisht, but with untimely Slaughter. In which Regard, It may become a wonder to a digested sence, to finde most Laws so unprovided or so slack in the Restraint *hereof*, as not, in the least manner, to reflect on their Nature, or their Consequence, since both directly tend to the Infringement of the *Publick* Peace. By which Neglect the injured is prompted to pursue unequal Reparation to his wrongs. *Affronts* more insolently and deliberately determine a Division in the *Civil Frame*. *Scoffing* more slily and obliquely. The Arrogance of *That* seems to assume a priviledge to impose a Rule. The subtlety of *This*, but to insinuate a form in common usage.

Not inferiour to *these* are Acts of *Inhumanity*, whether in the

the omission, or in the rigorous and untimely execution of *Civil* Rights; which most men (judging soly confined to the Injunction or permission of the Law) make those the Stations of their *Civil* Duty, which are but fixed Lights, erected only on the extreams to avoid those shelves procure a common shipwrack. To the *first* Point we must come, to the *Latter* we may come, under this Caution, *Summum Jus, summa injuria. Extream Right, is extream Wrong.* Betwixt *these*, and the common Continent of a *Civil* Devoyr, there are many Degrees of Latitude, not specified in the Letter, to leave the will more Freedom in the Election of the Good or Evil, which thereby only are intitled ours. Nor can he justly be admitted as a Member to the *Civil* Structure, whose Actions do endeavour to deface the very Nature of that Being doth qualifie him with his Distinction. How far *This* Savage Attribute may be repugnant to our *Civil* Order, explicitly is implyed in Intimation of the sence *Thereof*, expressed in the Letter, inferring a satisfactory and inflexible persisting to the Destruction of our kinde. To what extent might be reduc'd the Nature of our *Subject*, not easily is distinguisht; since each remorsless sence of others suffering tending to Ruine, we impose or farther, may form thereto a perfect Definition. A proof whereof adjudg'd, may be extracted from that *Roman's* entertainment, *Who, on Reception of his Page, that much perplext his Sickness had detain'd him till the Period of the War, in that he ne're had seen the Slaughter of a Man. To satisfie his Reproachful Curiosity, commanded straight a Criminel to the Block:* for which he by the *Censor* was expell'd the Senate.

As Twins, falling under one Similitude in Nature, may hereto be annexed Acts *unnatural*, as the Inemnity and Neglect between Parents and their Children; Brother and Brother, and other nigh Relations in Affinity; where both Divine and *Civil* Institutions joyn to engraft the strictest Band of Unity, to lay a firmer Baiz unto the lasting Structure of a *Civil* Government, as may be instanc't in Conjunction of old *Israels* Tribes, who farther were by severe Laws enjoyn'd to support and supply the Members of their Families, even to the nighest union. Nor can in Reason it be figured, that any person Cordially should adhere unto the *Publick* Interests in remote Agitations, who so reproachfully deserteth the Contingence of his own in a nigher Intercourse.

Not far remov'd from *This* in Consequence are Actions of *Ingratitude*, when as the due Resentment of a free and timely Comfort to an afflicted Condition utterly is extinguished, an Impropriety so incongruous to a *Civil* Community, That common sense in every Beast may lend *It* infamy. The Oxe and the

the Ass know and acknowledge the hand to them administers. And the most Savage will become reclaim'd, where they accept to Nature a Refection; whence man, of all distinguishing Creatures, should receive so unequal an Impression, must either be the Arrogance of his haughty Spirit, detesting to appear inferiour by a *Civil* Fealty: or else the Avarice of his sordid Nature, retracting the Acknowledgement, lest it in *Civil* Rules might challenge a due Compensation: Both which Sources are to a *Civil* Union equally incommunicable. How far the Issue yet may probably obstruct the Circular Motion of our *Civil* Body, in a reproachful *Mecognisance*, may, to the grosest sence be clearly evident; considering no Consequence can sooner form Reluctance in the will, to do another good, then where our full Endeavours meet so bruitish a Reception.

Having thus traced out some irregular Motions in our *Civil* Frame, under a more Especial Reference unto *others*; we will endeavour now to treat of some Disorders, under a more immediate Reference to our *Selves*, not pretending to attain the full extent of either. But to cast such a shadow thereof on our present *Work*, as may comparatively form the unexpressed more distinguishable, and hold a fairer *Simitry* with the Capacity of our *Treatise*.

The *Subjects* we would hereupon infer, are Actions of *Licentiousness*, as *Drunkenness*, *Luxury*, *Gaming*, *Riot*.

Drunkenness may possibly appear a *Subject* here improperly inserted in our Order; in that most Laws may seem to form thereto a due Punition. Yet in Reference to the Nature of the Crime, not totally equivolent, weighing judiciously the common Damage thereon may ensue unto the *Civil* Texture, in regard it is a reproachful exhauster of the Publick Store. A certain Ruine to a private Family. An apparent Introduction to every Mischief. A temporary Dissection of a Member from the *Civil* Frame. Under what Degree of Disorder this Distemper truly may be distinguished, is not altogether unworthy a due Perpensation, since the vulgar, in favour of their sensuality, have lent *It* so gross and ridiculous a Character, as is not to be encountered but in the highest extremity. But far more rationally may be affirmed, That every extravagant Emotion of the Spirit, and every impotent and irregular Motion of the Body, by drink procur'd, may figure the Distinction.

Under the Intimation of *Luxury* may be imply'd all sensual Excesses whatsoever, more especially the inordinate Indulgence to the inticing Relishes of the Pallate, and the lascivious and unlawful Prosecution of a Bruitish Lust, How far the common Consequences *Hereof* may reach the Detriment of the *Civil* Structure, we will endeavour clearly to enlighten. Our *Subject* taken

taken in the *former* Sence, is not only a superfluous Consumer of the Publick Affluence to the enhancing of Provisions, most useful to a common Existence; but, with the inevitable Incumbrance to our own private Fortunes, also a visible extinguisher of That, which *It* pretendeth but to cherish, smothering or enfeebling the innate Heat, the immediate Instrument to every Faculty of Nature. So that not only the Body, but the minde becomes hereby obscur'd, effeminate and slothful, and consequently unuseful to every *Civil* Practice. Farthermore, the Charms of this Indulgence to our proper *Genius*, so endeareth the Affections to a bruitish Sensuality, that it totally alienates the Thought from any sense of others suffering, so far, that *It* becomes unto the *Civil* Frame a Burden incommunicable. *This* Subject taken in the *Latter Sence*, though from the other seldom found divided, the *Latter* being usually joynt Issue to the *former*, meeting a Celibate Condition, begetteth either a Protraction, or a perpetual Renunciation of an *Hymeneal* Union, both punishable by the Law in *Civil* Communities of severer Discipline, encountring a Conjugal Estate, *It* breaks that Band of Amity, which is the first strictest and most natural Foundation to a *Civil* Union, in either (if any) *It* produceth but a spurious and degenerate Issue.

That sence which the *Former Attribute* could not reach to in the common usage of our *Tongue*, more properly may under the notion of *Riot* be expresst, having for Object a servile Assubjection to the Adulation of the senses (not formerly thereby inferr'd) at how profuse a rate soever: so that, in Respect of the vanity, This Piece of *Licentiousness* hath a Latitude beyond the Capacity of a Prescription; whether in the Curious, Sumptuous, or Superfluous Ornaments inherent to a Person, Place, or Equipage; or in the alluring Rarities or Excesses of an entertainment, tending rather to exhaust the Affluence of Nature, then satisfie with her Plenty. Where Noise and Vapour to affect the airy senses more, o're ballance in expence the Rest. Or what other fantastick Ministry to a distemper'd Fancy, tends but to form prodigious vanity, or a ridiculous singularity, which sometime meets so high extravagance, that sundry Figures, Drawn, Cut, or Grav'd in the Mettal, Earth, or Stone, (under the Honour only of Antiquity) become the price of a considerable Revenue. What measure of Disorder may hereby be procured to the *Civil* Frame, will clearly be distinguisht in those Breaches, which the most flourishing *Societies* have suffered under so impetuous a distemper, which like a raging Fire consumeth All to satisfie *It* self, leaving no Rights unviolated. No Mischief unpractised, to yield new Fuel to the corrupted sense, when the Materials fail so satiate the unbridled will. *This* Exu-

berance of the Wanton Blood moſt uſually is engendred in the Greater Veſſels of the *Civil* Body, from whence *It* by the leſſer is attracted, by affected Emulation, till *It* become a general Infirmity, whereby the whole Frame, voluptuouſly effeminated, becomes incapable of any generous Action, ſo conſequently a prey to the ſlighteſt Incurſions of an Enemy.

Gaming, not taken in the ſence of a Divertiſement, but in the Nature of an ardent Perſuit to a diſhonourable Acquiſition, where the Adventurer, to improve the Advantage of his Stock, puts it to the Queſtion, whether his juſt Poſſeſſions be his own. A ridiculous and bewitching Itch of Avarice, where each one, in ſport, perſues Anothers Ruine in earneſt. In the Victor the Facility of the Acquiſition begets a Profuſeneſs in expence. In the vanquiſht a ſelf-conſuming Rancknur to repair the Dammage: ſo that neither attain the end of the undertaking, ſince both become fruſtrate in the Improvement of their Condition. The *former* ſwelleth with vanity of ſucceſs, although not raiſed on his own ſufficiency. The latter ſhrinks away dejected as guilty of his Folly, more than aſhamed of his Fortune. Nor yet alwayes ſo ſilently paſſeth the Debate, Execrations and Imprecations uſually fill up the Scenes, which frequently are cloſed in a Tragick Iſſue, the interlude too probably the Prelude to a Quarrel.

How materially the unreſtrained Liberty hereof may conduce to the Dammage of a *Civil* Society, we need not to infer, when we ſhall reflect upon the Conſequence of the Practice, tending to a certain and ſudden extirpation of a Family, where the falling Pillar not only ſhattereth his own Branches, but either becomes an uſeleſs Burden to the whole *Frame* in a paſſive Indigence, or a common Incendiary in ſiniſter Practiſes, to ſupply a Recruit by deſperate Attempts. We have omitted to propound to every exorbitance an equal Penalty, according to our former Order. In Reſpect that divers Circumſtances, both in Action, Place, Perſon, Age, Sex, *&c.* may not only vary the Meaſure of the Error, but the Nature alſo of the Penalty, which can only meet a plauſible Infliction in the Judicious Impoſition of the Moral *Cenſor*.

XXXVII. *The General Properties inherent to our Civil Exiſtence, with their legitimate Fruition and Poſſeſſion.*

BEfore we proceed to treat of the *Security* and *Improvement* of our *Civil Property*, in Order immediately enſuing: It will firſt be requiſite, that we ſhould fully and clearly diſtinguiſh

guiſh the Dependences thereof, with their Legitimate Poſſeſſion and Fruition, without which, our Enterpriſe will, in the moſt perfect Contexture encounter but an improper Iſſue, ſince Rebels, Out-laws, Thieves and Rovers may in their common Aſſociation, poſſibly purſue an equal Method to preſerve the Spoil, Rapine, and Murder had congeſted; yet not attain the Dignity or Glory of a *Civil Society*. In order to our Propoſition. The General *Properties* have Reference to our *Civil* Exiſtence, may properly be ſpecified under theſe Diſtinctions, *Wife*, *Children*, *Servants*, *Office*, *Houſe*, *Lands*, *Chattels*, or *Moveables*; To which we become legally entitled, either by a juſt *Acquiſition:* a free *Donation*, or a lineal *Succeſſion*. How far, and in what the Nature of each *Title* may hold a due Conformity with each *Property*, we ſeverally ſhall endeavour to diſcover.

Though the explicit ſence of *Acquiſition* may ſeem improperly applyed to ſo ſolemn an Inſtitution, as a *Conjugal* Relation, in that the ſympathetick Influence of Nature often ſecretly determines the Contract, before the Overture is publiſhed, conſtituting the ſubſequent Agreement rather a *Donative*, then a ſollicitous Capitulation: nevertheleſs in Reſpect, the implicit Inference *thereof* may reach beyond the vulgar uſage of our *Tongue*, we will apply *It* to the vulgar uſage of the Ceremony, being in their Practiſe frequently, but a Mercinary Compact: under which Latitude of Sence, may be compriſed divers ſpecies of *Conjugal Acquiſition*; as that of *Violence*, which probably may be judged the moſt improper and unlawful kinde imaginable. Inſomuch, as the Proceedure is altogether repugnant to the firſt, Natural, and moſt legitimate Motive of union, *Love*, yet weighed with a Reference to ſome Conſequents, an enterpriſe unimpeachable, as the primitive *Romans* Incurſions on the *Sabines*. And the abandon'd Remnant of the *Benjamites* on the relenting *Tribes*; where the inveterate emnity of an Adverſary malicioufly would endeavour to extirpate a People, by intercepting ſo the courſe of Nature in a lawful Propagation.

In all other Reſpects every *perſonal Violence* herein may properly be held a Capital Delinquence.

Whether a *Collateral Violence* herein, where the aſſenting Childe is forced from the diſſenting Parent, be a Crime ſo highly puniſhable, as the rigour of the *Civil* Law exacteth, imputing *It* equivalent to a Rape, is an Argument not unworthy an exact Diſcuſſion, ſince our moſt Legitimate inherence of Right is conſtituted in our own Natural Production. And the moſt proper and plauſible Motive to be ſucceſſive continuance of that Production, the impulſive Influence of a vertuous Love.

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The *Civil* Ballances thus counterpoiſed, we will endeavour to remove the Impediments may probably obſtruct their Motion; whether in Reference to *Sex*, *Age*, or *Condition*; As to the Diſtinction of Sex, no Law admitteth the *Male* to a capacity of a *Conjugal Violence*, either *Perſonal*, or *Collateral*. Many ſubſcribe to the diſanulling of the Contract tranſacted without the Paternal Agreement: ſo that we may conclude the *Female* here only capable of a *Perſonal*, or a *Collateral Violence*. Neither can her Conſent before Maturity for Generation free the Attempter from the Guilt of a *Perſonal Violence*. In Reſpect, the natural Motives to ſuch *Union* are yet to them held indiſtinguiſhable. From the Impeachment of a *Collateral Violence*, no *Age*, under the Paternal Tuition, can exempt the undertaker; her widowhood falls not under ſuch Preſcription; inſomuch, as the Parent hath formerly made a ſurrender of his Title in a free *Donation*; and her Husband deceaſing, leaves her as Head to the ſucceſſive Government of his Family.

In Reference to the *Quality or Condition*, why the Law ſhould form the Diſtinction of a *Violence*, from her *Civil* Endowments, is not clearly obvious to a rational Inſpection; ſince every *Violence* hath only for Object, the Impulſion of the will, either *Perſonally* or *Collaterally*, in Reference to the Infringement of anothers Inrereſt, which is either *Paternal* or *Guardiant*. The former our Laws reflect not on, poſſibly, in Reſpect, it yet reſteth in the Capacity of the *Parent* to fruſtrate the Fruition of her Pretences. The *latter* being but a Relation of Truſt, can leſs in Reaſon, challenge the Priviledge to ſuch a Procedure, not rightly entitled to a *Property*, unleſs we ſhould avow the venal Acquiſition of the Tutelage, now aboliſhed, to the approved Ruine of a Family, which might yet nevertheleſs more equitably have been repaired in the Cenſure of a ſlighter Treſpaſs, had not the Dignity of the Prince herein been immediately or remotely blemiſhed; which being only ſucceſſive to the *Paternal* or Natural Authority, why ſhould the *Parent* be excluded ſuch a Priviledge, where the ſucceſſion is unalterable, depending on another Line: Which Propoſition leads us again into the currant of our ſuſpended Argument, whether the *Parents Diſſent* only in a *Conjugal* Contract, may equitably fall under the Cenſure of a Rape? The Supream, Sacred, moſt General, and Authentick Rules to illuminate our wayes in the intercourſe of humane Society afford us no approved Proof of *Conjugal* Union, but what hath been derived from the Agreement of the natural Parent, whoſe Reception of the Addreſſes properly did form the Introduction to the Contract: inſomuch, as the firſt moſt viſible and legitimate Inherence of Right, is that which is extracted from the courſe of

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Nature. *This* Procedure seems also most authentickly confirm'd in the Formality of the Ceremony, where the Transaction passeth from the Parents hand, or one that Personates his presence. In competition to the Filial Liberty herein (which probably might lessen the Nature of the Trespass) may be alledg'd the Irresistable Influence of the Celestial Orbes ordain'd to such Impressions on Inferior Bodies, as may impulsively attract them to an Union, without the Consultation of the will, which not submitting to the exactest Result of the Interior Light, in opposition of their Motion, may equitably be dispens't from the subordinance to anothers will, when as not under the subjection of our own. Nor can the Advantages of Fortune, which usually herein o're-sway the Parents Inclination, be a plausible Inducement to so material a Consequence, where the Perfection of the Institution dependeth immediately on the mutual Agreement of the Interior Faculties, which in their Conjunction can produce but a degenerate Composure in Another, when formed from so Gross and Corrupt an Object. In favour of the *Trespasser*, where her *Civil* endowments are but voluntary or casual, may be alledged the Sincerity of the Motive to an honourable Persuit, limiting his Pretences in the Fruition only of her Person, without the Inherences to her Fortune, having in the Disorder of his Proceeding frustrated his Capacity to acquire it. From the Result of our Discussion, may possibly be formed a Conclusion sufficient to suspend the Impeached from a Capital Offence: but nothing yet from thence infer'd, might counterpoise the Parents Injury in the Miscarriage of a Childe, did the Loss extend no farther then the Ravishing of his Comfort might have redounded from the endearments of an agreeable Community, if but establisht by his Counsel or Election. In Reference therefore to the *Trespassors* may be affirm'd, that to the Disobedience of the *Childe* is justly ballanced the forfeiture of her Patrimonial Inherency. To the Insolence of the *Violator*, such Reparation in Honour, as the Dignity of the Family may require. In the sequel of our purpose remaineth yet a Difficulty not enlightned, whether *It* rest in the *Civil* Capacity of the *Parent* to disanul the Contract past by Nuptial Ceremony? For solution to the Question, may be reply'd, Few Laws herein dissent from the Affirmative. But how such Procedure may be consistent with the Honour or Advantage of the Childe, or yet the *Parents* future Satisfaction (All conjugal Rights transacted) is indistinguishable.

Another kinde of Conjugal *Acquisition*, more properly so tearmed, is the *Venal Acquisition*; where the *Acquisitor* purchaseth his Pretences from the *Parent*, for a certain summe of Mony, or other Consideration, which passeth sometime under

the formality of a Preſent. A Method of *Acquiſition* very improper and unſuitable to the Practice of our Age, where the higheſt perfection of perſonal Endowments, cannot win ſo much as the ſhadow of Attraction on our ſordid Inclinations: yet wants it not the Authority of the exacteſt Models of a *Civil Society*, to form the Inſtitution Regular. Probably in Reſpect, that ſuch Proceeding is the higheſt Pledge to an inviolable Amity, the ſureſt and moſt plauſible Foundation to the happy Condition and end of ſo neceſſary an Inſtitution. But whether ſuch Forms of Contract may meet no Inconvenient in the Conſequence, is not ſo clearly obvious: Inſomuch as the Nature of the Introduction may poſſibly figure a more hig.. and unequal Inherence to the *Property*, then probably may be conſiſtant with ſo perfect an Amity; ſeeming in the intention, rather to imply a Diſtance of Servilty, then a Coadjutance in the Miniſtry: We may therefore herein conclude, that a mutual Retribution of the *Civil* Faculties is as proper an Order to a happy Inſtitution in this *Civil Union*, as the reciprocal communication of the *Natural* Faculties is to the ſucceſsful Conſtitution of the *Natural* Union: yet in either Tranſaction will ſuch a method be prepoſterous, if the Motive thereto do proceed rather from the means, then from the end or Object of the Inſtitution: to the perfect forming whereof, the *former* ſhould be but a concealed ſubſequent to the *latter*, not a primary and viſible Inducement. Such Procedure, among the *Spartans*, adjudged ſo irregular to a happy *Union*, that *It* fell, by publick Ordinance, under the Cenſure of a *Civil* Penalty.

The ſucceeding *Title* to a Conjugal Adherence is that of *Donation*, the moſt uſual, proper, and legitimate Method in conſtituting ſo material an *Union*, where the uncorrupted will moves freely to a deliberate Reſult in the Election, that a happy and agreeable Community may thence iſſue to every Branch inherent to the Alliance. To what Latitude the Agreement of Parties may juſtly be extended, is a Subject not altogether inconſiderable. The *Parent* and the *Eſpous'd* may probably here limit the Propoſition, though Cuſtom, in *Civil* uſage, requires it ev'n from the Remoteſt of the Family, yet rather under a Form of Ceremony, then a Pretence of Right. But why the Maternal Aſſent (ſhe being the ſole Regent to her Family) ſhould here not be admitted to an equal Priviledge, in the ſucceſſive Authority to her deceaſed Husband, as to appear a Principle in the Ceremony, is a *Civil* Impropriety, ſcarce ſhadowed with a Rational Pretence, unleſs the practice be voluntarily waved, in favour to the decent Reſtraint of a womanly Paſſion, which might poſſibly extend to a diſorderly Erruption, perſonally to ſeparate from her ſelf by her own publick Act,

whom

Whom tender Nature had so nighly united.

From the example of that exact Pattern of Morality, *Cato Vticensis* may here be possibly inferr'd a Proposition, which seldom could elsewhere finde out a President, but in licentious Practises, whether *this Conjugal* inherence may be (with due conformity to *Civil* Rules) transacted by the Principle to anothers Possession, as a Common *Property*. The solution may properly without contradiction, pass in the Negative. Insomuch as there was a mutual Reception in the Contract, and the Husband not in right impowr'd to alienate himself from her Possession; to whom he was conferr'd by his own proper Act, Nor can a joynt Concession from both Principles form equitably a Retraction of so strict a vow in so solemn an Institution. In Reference to *Cato*'s procedure herein may be alledg'd, that such elevated and refined Spirits, have in the source and course of their Communities more noble Objects, then the vulgar can reflect upon, as the plausible Reception of his Wife again on her first Widowhood may express. Such Traces therefore can visibly form no proper Rules to common Actions.

The *latter* Method of a *Conjugal* Investure is that of a *Succession*, an Order not any where found in use, but in the *Judaick* Society: And there also under a Conditional Position, *If the Brother dyed without Issue*. The intention of the Prescription had possibly both explicitly and implicitly a plausible Persuit. Explicitly, the support of the Brothers Name and Family. Implicitly, that such a nighness of Relation might more peculiarly in them engraft a stricter *Union*.

To the Right of *Possession* must necessarily proceed the Right of Institution, either *Civil*, or *Divine*, as the Legislative Power shall adjudge most proper to the Nature of the Transaction; which concluding in the *latter*, may possibly lend more weight unto the Ordinance: But both tending to a due and orderly establishment, require authentick Publication, to avoid promiscuous, scandalous, and litigious mixtures. Whence consequently ensues this Proposition, Whether private and concealed Contracts, under what form soever passed, tending to a *Conjugal* Union, may be admitted to the full Capacity of a legal Institution. For solution, may be affirm'd, that such Agreement equally and effectually may engage the Transactors to a mutual Coherence. But not oblige the *Civil Society* to an equal Reception of their Transactions under such Distinction, until by perfect and authentick Publication specified.

One Ambiguity inherent to our *Subject*, may probably here require a due Discussion, whether the Allowance of *Poligamy* might prove consonant or useful to our *Civil* Order. If the Felicity or security of a *Civil* Society consisted in a numerous mul-

multitude; the certain'ſt means to attain it in a lawful Propagation might be allowed warrantable. But queſtionleſs, a due Proportion of the parts thereof is requiſite to form a perfect Harmony in the *Civil* Frame. A noxious Repletion may as well happen to the Body *Politick* as *Natural*; both *Quoad Vires*. In reſpect of becoming a burden to the whole Frame, or *Quoad Vaſſa*. In regard of the exceſſive Extent of each peculiar Continent beyond a due Capacity of Reception. Furthermore, *Unity* being the ſole Object of a *Civil* Felicity, can no way rationally be attained in ſo unequal a Diverſity.

Having thus lent a legitimate Preſcription to the *Conjugal Union*, e're we proceed to treat upon the ſubſequent Particulars, it will be yet material here to trace a Rule to their legitimate *Separation*, in Reſpect, it poſſibly may extend to ſo valid a Retraction, that each ſurviving party may legally be endowed with Capacity to tranſact their Perſons, on another in a new Election.

To what Latitude of ſence a legal *Separation* here may be extended, is not yet clearly obvious, ſince vulgar uſage thereby only would imply a temporary Diviſion, either voluntary or Impulſive. The *Total* only falling under notion of Divorce.

In Reference therefore to ſuch Diſtinction, we will proceed to agitate on their Nature. *A Conjugal Separation* is either *Extralegal*, or *Voluntary*, or *Legal* and *Impulſive*.

Extralegal or *Voluntary Separation* is ſuch a Diviſion in a conjugal Union, as may be conſtituted by mutual Aſſent or Agreement of the Parties, which may either be repealed or continued, without any Procedure or Formality of the Law.

A *Legal Separation* is ſuch, as by due courſe of Law becomes impoſed on complaint, and by due courſe of Law, may with conſent of Parties be repealable; if irrepealable, the true Diſtinction *Thereof* more properly falls under Nature of *Divorce*.

The *Extralegal* or *Voluntary Separation* form'd from Divine or Moral Preſcription, not reaching any *Civil* Ordinance, we will omit here farther to diſcuſs upon, as altogether improper to our *Subject*.

The Legal or *Impulſive Separation* preſents unto us a double Ambiguity, whether, and on what Ground, ſuch *Separation*, may plauſibly be conſtituted by a *Civil* Ordinance: And whether any Act under ſuch *Separation* paſſed joyntly or ſeverally, wherein both Parties are concerned, may be accounted valid.

For ſolution, we may conclude, that ſuch a Procedure poſſibly may juſtly fall under the Conceſſion of a *Civil* Judicature. But with this ſtrict Limitation only, where a viſible Attempt hath been practiſed againſt the Life of either party by the joynt

Aſſo-

Aſſociate, in regard our common ſafety is the immediate Object of a *Civil* præſcription. And although it here may be alledged, that the *Civil* Texture hath more forceable and general Rules form'd in it ſelf to the due reſtraint of ſuch Accidents. Yet where the Fewel to the Action ſo nighly and continually is fomented, the *Civil* Judicature might juſtly be held guilty of the barbarous Iſſue, ſhould *It* decline from the removal of ſuch opportunity, might miniſter to the Miſchief.

As to the Tranſactions joyntly may concern the *Conjugal* Union under a *legal Separation*, we either may reduce them to a *Civil* or a *Natural* Reference. The *Civil* have their Limits under private Contract or under publique Ordinance.

The Natural ſuſpended by Decree, cannot without a publique Repeal, either ſeveraly or joyntly tranſacted, attain a true Legitimacy.

The nature of a *Divorce*, extendeth to a vaſter Latitude, having for Object a total or perpetual *Separation* from a *conjugal Society*, impulſively conſtituted by a *Civil* Ordinance.

But under what Remonſtrance ſuch a cenſure may juſtly paſs the *Civil* Judicature, is not ſo fully ſpecified. Acts of Adultery are only explicit'ly expreſſed in the ſacred Letter, and ſo far proſecuted by the Inſtitution of the Civil Law, but under ſuch Obſcurity and Difficulty in the diſtinction, that the intention thereof totally thereby becomes fruſtrate. In Reference to the *Firſt* obſtacle, where the ground of the Procedure falls under a criminel Treſpaſs. The Præſcription vainly tendeth to a *Civil* Diviſion, in Relation to the *ſecond*, where the Charge requireth an occular Teſtimony to forme the Impeachment regular; the proof reſts totally o're-ſhadowed with a humane impoſſibility.

We may yet more properly hereto annex ſuch incapacities as may fruſtrate the intention of the *Conjugal* Inſtitution; whether *Civil*, *Natural*, or *Accidental*.

Under the Notion of a *Civil* Incapacity, may paſs not only ſuch, as are excluded by a common Præſcription in the *Civil* Order, as *Ideots*, *Lunaticks*, *&c.* But ſuch Relations alſo of a Blood, as in regard of their Proximity may decently fall under Legal Interdiction, *Qui loco Parentum inter ſe habent*, &c.

Under the diſtinction of a *Natural* Incapacity, we may infer ſuch incorrigeable Imperfections, as by nature happen through the error of her work.

The *Accidental* Incapacity may be extended to Præternatural or Artificial Affections.

The *Præternatural*, where either Naturally or Adventitiouſly, *ex morboſa aliqua conſtitutione partis aliquid deeſt, vel ſupereſt*; *by imperfect conſtitution of Parts*, *ſome thing is either wanting or ſuperfluous*. The *Latter* Imperfection may fall under

der the possibility of a Remedy to render it a capacity of *Conjugal Union*. As *Imperforatæ*. The *Former* never.

Under an *Artificial* Incapacity may be inserted such an Impotence, as is contracted by inward Assumption or outward Application, or by Enchantment, as *Ligati*. But in respect such disabilities seldom are incorrigeable, we cannot justly exclude them from capacity of *Conjugal* union.

Some difficulties inherent to our *Subject* may pertinently be here enlightned, as whether such a legal Incapacity ought to be subsequent or preceding the *Conjugal* Association? And whither such an Incapacity predistinguishable may justly, in concealment, fall under censure of a *Civil* Trespas.

The *First* Position seems a scruple scarce worth an Exposition. Since every just pretence of a Retraction in agreement (of this kind) is grounded on Deffaut preceeding contract. The *Latter* being a Subject more proper to another *Principle* we will remit to their peculiar Order.

2. From the perfect fruition of the *First Property* usually proceeds the justest *Acquisition* of the *Second*. *Children*, which nevertheless, without so strict a Reference, materially may be considered under the Distinction of the *Natural* and the *Civil*.

The *Natural Acquisition* is either *Legitimate* or *Illegitimate*. The *Civil* only is *Adoptive*.

The most proper and agreeable coherence is without doubt the *Natural*, in which our very Essence seems in the Currant of succession transferred to Eternity, without which, Mans successful endeavors (though Crown'd with opulence and Honor,) yield in their fullest Affluence but an imperfect satisfaction, their charming Harmony still grating the affected Heart, with the good Patriarchs interjected Discord. *Quid mihi*. Tha tthe illegitimate Dependence, though naturally constituted, should reach so high a consequence, can scarcely be affirmed. Since Infamy and Infidelity associate the Production.

It will therefore be materially pertinent to our Order fully to appropriate unto either their Distinctions. *Children* intitled with Adherence of *Legitimacy*, may such be figured either *properly* or *improperly*.

Properly, such, as after due solemnity of their Nuptial Rites, are in due season and maturety of time produc'd.

Improperly, such as before Terme, under Terme, or after Terme of *Conjugal* Institution, untimely are produc'd.

The Two *First* Distinctions the Civil Law admitteth to a priviledge of *Legitimacy*, and sometime the *Latter*, when confirmed by some Accident, that Nature was disturbed in her usual course. Our Laws more Rationally, exclude them all from such capacity: Insomuch, as the succession of Families, (in regard

regard of their Possessions) ought to be preserv'd, so regularly pure, as not to become subject to the blemish of a visible suggestion.

The *Illegitimate* coherence of *Children* may also bear the same distinction, being such either *Properly* or *Improperly*.

Properly, such as without Reference either to Preceeding or Succeeding contract, at any time are produced.

Improperly, such, as with Reference either to Preceeding, or Succeeding contract, or unto both, untimely are produced.

The *Latter* Distinction of Illegitimacy may sometime plausibly (in reference to many circumstances in the Transaction) by especial Grace of Prince or People, be admitted to a capacity of *Legitimacy*. The former regularly and without *Opprobry* never.

To these Distinctions of Filial Inherency, may properly be annexed that of our *Adoption*. A *Custome* very frequent among the *Romans*, where Vertue being esteem'd the highest Dignity, became invested with adherence of the nighest Relation; on the immediate extinction of a Family, but to support their Name.

How farr the Agreement should extend to form the Institution regular, may probably frame an Argument material in Discussion. Besides the Principles both *Pater & Patria* are concerned in the Agitation, nor can either justly be excluded in consent to the Transaction. The *Parents* in respect, a Member thus becomes defected from the Family; The *Civil Society*, in regard no alteration of Order in so Essential a Distinction can justly be admitted in the *Civil* Frame, without a publique Act, so that we may hereby conclude the Inherence to his Property must pass under the Title of *Donation*.

Whither the Paternal Inherencies, as *Lands*, *Goods*, *Honours*, &c. may justly be transferred with the Person to another Family, is a *Subject* materially considerable, and may possibly without opposition pass in the Negative; insomuch as the common Affluence tending to support but one peculiar *Stock*, becomes enfeebled, when diverted to the enlargement of another.

3. *Servants* in Reference to their Use and Nature, have a vast extent in their Distinction, as *Bond-servants* and *Free-servants*, *Domestiques* and *Retainers*, *Fealists* and *Facultists*.

Bond-servants are distinguished in the Perpetuity of their Servitude, terminating only with their Owners special Grace in a publique Enfranchisement, or by the Common Law of Nature.

Of *These* there are sundry sorts of *Acquisition*, The Primitive and most Antick, was, questionless, the chance of War,

which inevitable Thraldom to the vanquiſhed, was probably the higheſt and the juſteſt Motive to a generous oppoſiition. The hope of future enlargement, tending but to unnerve the Reſolution. But Man contracting ſtill corruption with the Time, formed hereto another *ſpecies* of *Acquiſition*, the victor not contented with the uſe and Glory of *Theſe* living *Trophies* to his valour, made them the *Subject* of his Avarice in a ſordid Traffique. 3. To *Theſe* two kinds of *Acquiſition* ſucceeds a *Third*, not altogether properly ſo term'd, in reſpect it ſeems framed on a voluntary Conceſſion, where the *Bondman* attaining by publique Ordinance: the privilege of Enfranchiſement, prefers his Bondage 'fore his Liberty, not accepting the Permiſſion, whereon *the Maſter nailing his Ear to the Poſt of the Houſe, became entitled to his uſe for ever.* Yet may this probably be judged an *Acquiſition* of Benignity, which in his former Bondage had ſo engratiated the ſervant, he could not hope to improve in future his Condition.

4. From theſe Diſtinctions of *Acquiſition* may poſſibly proceed a *Fourth*, more juſt and abſolute then all the other, when in a lawful propagation, they are multipli'd, where the enthralled Infant receiving his Elevement in the Family by his Maſters care, more ſenſibly accepts him for his Father, of ſuch were form'd the good old Patriarchs Families.

Whether the Authority of the Lord over his *Bondman*, juſtly might extend to Life and Death, is an Argument may properly be here reflected on. The practice of moſt *Commonwealths* in which this ſort of ſervitude was formerly in uſe, affirms it regular. To which the ſacred Letter not much diſſents, preſcribing to the term of an accidental Diſpenſation, but the extent of three days from the Fact unto *his* expiration, rather as a Reſtraint to Inhumanity then a rule of Equity, as appears by the ſequel, *for he was his Money*, which ſeems to acquit him from a voluntary Act, in reference to his own Intereſt. The weight of *This* Propoſition chiefly depends upon the *Bondmans* adherence to the *Civil frame*, to which admitting him a Member, he juſtly then may claim a priviledge of ſecurity from the *Civil* Rule, if not admitted ſuch, he muſt at leaſt be yet allow'd to be a *Civil* Property inherent to the *Publique* benefit, which no way can be wilfully deſtroy'd, without a common prejudice, ſo that if the Fact prove not a criminel Delinquence, it of neceſſity muſt be adjudged a publique Treſpaſs, which concluſion alſo will meet a farther impropriety in Rule, ſince every *Bondmans* life extinguiſhed by any hand, can onely paſs the cenſure of his Price, nor falls it equaly within a *Civil* Reparation, if the Agent be of equal incapacity, ſo that ſuch a Liberty may poſſibly extend to a prepoſterous diſ-

order

order in the publique Peace. To take away the cruelty of the Masters, redounding often to the publick prejudice. *Antonius commanded they should be sold to others, not barbarously Treated by their Owners.*

Bodin concludes our Customary forms of Apprentisage under this Distinction, though but improperly, in Respect, there is *herein* a voluntary and conditional Ingress and Egress of Contract: All which Parts of progression are utterly inconsistent with the proper Nature of a *Bondage*.

Free Servants are by voluntary and mutual Contract under the subjection only of a Temporary Servitude: and may such properly be qualified from the voluntary Initiation of *This* Servitude, which limited by prescription of a Covenant, renders to them a voluntary capacity of enlargement; of which there are divers kindes, either in Reference to their Tearm of Servitude, as Septennual, Annual, Mensal or Journal; or in respect of their Abode, as *Domesticks* or *Retainers*. These sort of *Servants* in their simple Nature, without a Reference to peculiar Covenant, are properly inherent only to the title of an *Acquisition*. In Respect the agreement is usually raised only on a personal adherence, which Ceasing by decease of either Party, the efficacy of the Contract must of necessity be void, though custom possibly may lend *it* other priviledge.

Feaelists are such, who by the Tenor of a real Possession, owe personal Service or Vassalage to the peculiar Lord, and might not altogether improperly be reduced to the Distinction of a Bondage. A *Species* of Assubjection not without due consideration dissected from our *Civil* Sufferance by publick Ordinance: Inasmuch as *It* hath heretofore been found a visible fomenter to our *Civil* Broils, and hath now only left a shadow Thereof in our Court Suits and Services. *These* sort of Dependents fall under a Capacity of every Title to a *Civil* Property, whether *Acquisitive*, *Donative*, or *Successive*, being usually inherent to the possession of the Royalty.

Faculists have their subjection formed voluntary, by a mutual Contract, in Reference only to the *Civil* Function, under Limitation of a tearm expreſt; which being expir'd, they legally may challenge their Infranchisement to the publick Profession of their Art, and may properly be comprised under the Distinction of *Free Servants*. Freedom preceeding the Election, and Freedom succeeding the Intention, as the Object of their Servitude. In the common usage of this inherent, Custom hath form'd an Impropriety not equitably allowable. That any one not yet, by *Civil* Rule, admitted to the Capacity of Fruition of his own Property, should be permitted to dispose of his own Person. 'Tis true, the Parents frequently are supervisors

to the Contract, but yet therein no real Agitators, nor yet where their assent is not so evident, doth any *Civil* Rule afford a priviledge to the Retraction of the Covenant.

4. *Offices* in Reference to a *Civil* Property, are formed only to the *Publick* use: Nor, can plausibly be either admitted *Acquisitive* or *Successive*: Not *Acquisitive* insomuch as such an Introduction doth figure a pretence unto unequal purposes, and lends a colour to the corrupt execution of his Trust. Lucre being the common object of a venal Commerce, farthermore so improper a Reception detracteth from the Worth and Dignity of the Minister, who should lend weight and Grace to the prescription of his Charge: under the license also of such custom, improper Agents are admitted to the managing of Important Agitations; not leaving the Institutor a priviledge of Election, while worth and vertue not stooping to so abject a procedure, become excluded the Capacity of a *Civil* Negotiation, Their proper and peculiar Sphere to lend true Lustre to their Nature. Such Imployments therefore might more happily be reserved to the Immediate Dispensation of a Prince or People, to recompence and dignifie approved Vertue in a plausible Distinction, and gratifie especial Services, without exhausting of the common Treasury. Whether this Mercinary Commerce fall under the practice of a Prince, his more peculiar or more general Ministers. The Inconvenients not differ much in Nature, only the Improvement of a Princes Treasure (though with impeachment to his Honour) may to a vulgar Inspection seem possibly to conduce more to the *Publick* Benefit: Yet the material Influence of either well distinguished, in Reference to the *Publick* Good. The Dignity, Vertue, and Benignity of a Prince, clearly o're ballanceth such sordid Consequents.

Not *Successive*, For then the Impropriety of the Agent to the Action were irrepairable; and the *Civil* Frame must sometime of neceffity sinck under the Insufficience or Corruption of engrafted Ministers. Farthermore the progression of Vertue to a *Civil* use, would utterly be obstructed, were the transactions of her Ministry only inherent to the Natural Order. And the Influence of a Princes Grace not materially communicable, the Subject should dispence the same, removed from his proper Act.

Lands and *Houses* have one and the same Distinction in Possession, being either *Real*, or *Personal*. And though the *Latter* Inherence may seem to issue from the *Former*, yet without doubt the *Latter* had first the preheminence in use; as appears in the primitive and unstable abode of our Fore-fathers, before the Sword had yet establisht a distinct property, which in

in process of time having reduced many Families of nigheſt Alliance to one *Civil* Subjection, aſſumed, according to the Capacity of their Powers, ſuch a Proportion of the earth, as might preſerve their lives with Pleaſure and Tranquility. And to avoid the Incurſion of their Borderers, erected ſuch Receipts for their Aſſemblies, as might make Oppoſition to Invaſion: In which, that every one might equally be concern'd, their precincts to each Owner was preſcribed by common Divident, under the Tenor of the Inſtitution, to whoſe Juriſdiction they became ſubordinate by a mutual Intereſt: So that we may conclude the *Tenor* of each *Real* Poſſeſſion, is primitively inherent to the *Prince* or *State* preſideth the *Society* under the form of a *Donation*, with ſuch Reſerves of Intereſt therein, as might ſupport the Inveſture of ſuch Dignity. In Reference to ſuch Conſequence might probably become inſtituted the firſt Title of Inherency, as *Feofs en taile*, where the nigheſt male ſucceeds to the Poſſeſſion.

Subſequent to *Feofs en taile*, are *Feofs ſimple*, where the *Real* Poſſeſſion deſcendeth to the Heirs General, under which Title Cuſtom admitteth the *Primogenitor* alſo to ſucceed to the Succeſſion, reſting only this Difference betwixt *This* and the former Title of Inherence, that herein the Poſſeſſor hath a capacity to diſpoſe of his Poſſeſſion, in preſent or future, where and how he pleaſeth, in the *Former* neither, being but Tenant for Life, and the next Male, lineally deſcended, muſt, though againſt his liking, become inveſted in the Right of his Succeſſion.

Another Title of Inherence to a Real Poſſeſſion, is *Feof en Farme*; A Title uſually iſſuing from the Conceſſion of a Prince, where the Poſſeſſion is tranſacted to a lineal Adherence, under the Reſervation of a certain Rent.

Theſe Titles of Inherence have alſo Reference to certain *Tenors*, and are either held in Capite, Soccage, Knight-Service, *&c.* But why ſuch Diſtinction of Tenors ſhould remain, where the perſonal Engagements are diſſolved, may prove an Argument to a farther Inquiſition: beſides theſe general *Tenors*, there are alſo with us, cuſtomary or particular *Tenors*, as *Gavil kinde*, where every Party equal in Proximity, is admitted to an equal partage in the poſſeſſion, *borrow Engliſh* where the youngeſt only.

Perſonal Poſſeſſions are ſuch, as by mutual Contract of Parties are conſigned under certain Covenants, and for certain tearm, either by *Copy*, or *Leaſe*; though the *former* Title may ſeem under cuſtomary Priviledge to challenge a ſucceſſion of Right. Yet ſince the Condition of the *Copy* bearing a Perſonal Preſcription, and falling under a Capaci-

pacity of Retraction, may become void and divided from the Right of a Succeſſion, without any voluntary Act or Surrender, it properly may fall under this Diſtinction.

Every *Real* Poſſeſſion being originally derived from the *Civil* Inſtitutor, whether his Inveſture therein were conſtituted by Agreement, or the Sword. Under the Title of *Donation* extended to a ſpecial, or a general Succeſſion, ought equitably to be ſerv'd by *Civil* Ordinance in ſuch adherence to a perpetuity: Such was the Conſtitution of the *Judaick* Poſſeſſions in their primitive Dividents, which could not be alienated from the Family or Succeſſion, but till the enſuing *Jubile*, nor ſo paſſed from the next Succeſſor, unleſs he had refuſed to accept the Sale. A plauſible Inſtitution to preſerve agreeing *Simitry* in each Part of the *Civil Structure*, lend bounds to inſatiate Avarice, and ſuccor to the Indigent. The *Latter* part of the Inſtitution remaineth ſtill in Force under the Texture of the *Civil* Law. The nigheſt in Relation, under Preſcription of time, retaining a Capacity of Redemption. But the Corruption of Humane Nature ſtill findes evaſion to fruſtrate the Intent of any Ordinance eſtabliſht to the publick Benefit, uſually diſguiſing the Nature of the Sail, under the colour of exchange, though the pretence be never ſo unequally deſigned. That it may juſtly in this, as in many others, become a wonder to a rational Inſpection. Why *Civil* Societies ſo exactly conſult, and ſo long deliberate on the Eſtabliſhment of *Their* Decrees; yet ſuffer the Intent thereof, to become violated, mock't and cheated by adulterate Practiſes.

No Title can truly impower the owner to paſs the Poſſeſſion of a *Real* Eſtate, equitably by *Donation* or *Deed*, but that of *Acquiſition*, unleſs the Poſſeſſion iſſue from a ſimple *Donation*, without reference to Succeſſion; which then according to the Letter muſt terminate in his, to whom it is Tranſacted. In which caſe, if feaſable, a *Donation* might fall under the Nature of an *Acquiſition*: In all other Reſpects the ſucceſſors have a juſt Title of Inherence to the poſſeſſion, and can no way be alienated without Injury, till the ſucceſſion fail. The Induſtry of the Predeceſſors having equally for Object the common Intereſt of the Family.

A *Real Acquiſition* is a Priviledge inherent only to the *Natives*, *Aliens* being generally excluded from the Capacity of a Real Poſſeſſion under what Title ſoever, leſt the ſubſtance Inherent to a *Civil Society*, ſhould be transferred to a forreign uſe.

Real Acquiſitions are not without Reaſon limited in ſome *Societies* by *Civil* Ordinance, eſpecially falling under uſage of a Commulty; where the poſſeſſion finding no Iſſue by ſucceſſion,

sion, might posibly in proces of time swell to so unequal a proportion, as might not be consistant with the *Publick* Interest. To form the *Acquisition* legal, the *Civil* Law exacts the consideration be in a certain measure valuable, else becomes void in the Transaction.

Real Possesions admitted general in *Succesion*, are properly not subject to a Distinction in Sex.

Chattels or *Moveables* hold a vast extent in the Definition of their Nature, which may nevertheless be reduced to one *Species*, under the Distinction of Money, the Common Receptacle to all the Rest. In this Property we justly may become intitled from any hand by way of *Donation*, since no inherence can be constituted on so moveable and uncertain a Commodity, though Nature seem to claim the first Direction, and her order thereto the Progression: yet being the fruit of Industry or Parcimony, the Possessor denying himself the use thereof, may justly be allowed his Inclination in the Fruition of another, how remote soever. But the most plausible Title to the Possession of this *Property*, is a just and regular *Acquisition*. The first and least subject to Corruption is the *Manual*, next the *Official*, last the *Venal*. Of the *Venal* the forreign. Of the *Official* the voluntary. Of the *Manual* the most necessary, from which principles issue all the Branches of a *Civil* Commerce.

This *Property* also falls sometime under the Title of *Succession*, when the Possessor dyes Intestate. But why the right of Administration should be so constituted in one Principle, by the *Civil* Law, contrary to her proper Order, as to exclude others equal in Descent, from equal Divident, may become a Caution not unworthy a Publick Reflection, though the error seems cast on the untimely Advertisement of the pretenders. Or why as some affirm, the Female Line should be preferr'd before the Masculine, without Infringement to the *Civil* Order. The procedure admitting of no other Rule then what might blemish her own Institution, inclining rather to the certainty of Nature, then the Authority of her own Prescription.

XXXIX. *The security of our Civil Property.*

THE security of our *Civil Property* (without Contradiction) consisteth totally under the Tuition of the Law, But such is the frailty of our Condition, that we pervert the very Nature and Intention of all things that fall under our depraved usage, whether *Civil*, *Natural*, or *Divine*, though never so happily constituted to our Benefit. A more visible Proof whereof cannot be instanced, then what we may extract

from the Constitution and Issue of all humane Laws, though never so exactly constituted, being ordained for the Peace and Preservation of the whole Frame of *Civil Union*, are universally the highest fomenter of Division, and the most destructive Burden that any way imaginable can happen to *It*, insomuch, as all other Calamities and Inconvenients of what kinde soever have their peculiar Seasons, Relaxes, and Intermissions. But this inevitable poison, under the colour of a common Aliment, is distributed, ev'n to the smallest Vessels of the *Civil* Structure. It will therefore be very material (more successfully to approach the general Nature of the Object of our Treatise) to search into the ground of so unhappy a Consequence, which probably may be disclosed in the Reflection of these Particulars. 1. *The mutual Disaffection of the People.* 2. *The Damage that attends on the Issue and Pursuit of a Civil Decision.* Though possibly might hereto be infer'd divers other more immediate Circumstances, which frequently pervert the Institution of the Law: as, 1. *The Improper Constitution of Courts of Judicature.* 2. *Their Error in Practice.* 3. *The Corruption of their Practitioners:* 4. *The Impropriety of the Law.* Yet nevertheless, since the two former causes removed, will inevitably frustrate all Inconvenience might arise from any such Disorder, we only will insist on their Discussion.

1. *The mutual Disaffection of the People*, without Question lendeth the first Combustable Matter to a *Civil* Dissention, and may properly be tearmed the Tinder of Debate; which catching fire on every slight Emotion, prompts the heady will to snatch at every slight occasion, that may Minister to the Distemper, and to justifie the Resentment, though never so irregular, and warrant the satisfaction, though never so destructive; most fly unto the Law, which both in the Procedure and Issue, leaving fresh Matter to more violent Debates, instead of a peaceable Decision, multiply an impetuous Division: On which inevitable Consequence of humane Infirmity, the exactest Legislators maturely reflecting, have endeavour'd to erect the structure of their *Civil* Society, chiefly on the Baiz of a mutual Unity, Concinity, and Agreement of the Parts thereof, utterly removing all *Obstacles* might therein visibly obstruct their happy enterprise; and imploying all the *Ayds* imaginable, might either through Use or Advantage, Form in them the perfect'st Habit of Affection, more strictly regarding in their Transactions the Rights of Amity, then of Justice; as may, in Reference to the first part of the Assertion, appear in *Licurgus*, *Taking away the use of Money from among the Lacedemonians.* Numas *equal Division of the Lands* Inherent to the Jurisdiction among the *Romans.* In proof of the sequel aforesaid,

said, may be instanced *The strict* * *Association of their Communities.* Every one, if able, was enjoyned under Penalty to repair unto the publick Intercourse of their Associates, for their refection, under this Limitation, that on those dayes design'd for Hunting, his Absence was permitted, conditionally, The whole Society might participate with him of the success of his Industry: the Residue was licenc't to his private usage and his Families. According to this Rule was form'd the Association of the *Essians*, a Sect among the *Jews*, whose happy condition did far transcend the Pharisee, or Sadduce: Insomuch, as under their inherence, none fail'd of his security, depending wholly on the mutual succor of the whole *Society*, whose joynt Interest was engaged both to the timely, and the due support of every Member of their *Civil* Frame. In relation to this Model were reduced the *Centuries* into *Maniples*, and *Chambriers*, In the *Military* Order among the *Romans*, by so nigh an Association to linck them in a stricter Union for their mutual Succor and Defence, and for encouragement to this their Coligation, to institute a publick Triumph to him in Particular, that had secured his Associate from the Enemy. Nor is the cautious Distinction of their *Tribes*, among the *Jews*, so nicely passed on Record, established on any other Purpose or Intention, then to oblige them to an Inseparable Conjunction in their fellowship for their joynt security. Our common Distinctions of Consanguinity, Alliance and Affinity, but spurious Emblems are of our Relations, in Reference to the proper use, and primitive Institution, being only kept alive by Record or Tradition, for the Advantage only of Particulars, not for the mutual Benefit of the joynt Inherency, which are no otherwayes therein concern'd, then as remote Collaterals, in future possibility, not in present Act; from whence ariseth Controversie, Dissention, and Debate; Batteries rather for mutual Ruine and Destruction, then *Cytadels* for their common preservation; whose effects are more obvious and deplorable, in that they frequently are distinguisht in the Transactions of the nighest Reference to a *Natural Union*: On whose Composure the *Civil* but pretends to raise her perfect Structure and Establishment: So that the Reflection of the Consequence justly may beget Astonishment in a digested sence, how it is possible the *Civil* Jurisdiction should resent the violation thereof, with so much Indifferency, since her Rights are to Natures but subordinate. Nor yet is our *Positions* only fram'd on *Civil* or on *Moral* Practises; our *perfect'st Guide* hath lent *It* a more eminent Distinction, affirming, *Love to be the fulfilling of the Law.* And how that *Law* should meet a happy Constitution, which pursueth not in *Her* Prescriptions the Object of *Her* Execution, is questionless in *Civil* Rules a visible Incongruity,

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gruity; whether it be in the Imperfection of *Her Nature*, or Impropriety of *Her Order*. Whether in the Coruption of *Her Miniſters*, or *Error in their Practice*, whereby the Members of a *Civil* Union may either be o're-powred, or enſnared in a *Civil* Tranſaction, leſt any Grievance or Oppreſſion hapning under ſuch a procedure, might inſtigate the ſufferers (judging the Nature *Thereof* by the Conſequents) utterly to deſert thoſe *Principles*, whereon the *Civil* Fabrick chiefly was erected, and follow ſtrange Chimero's of their own Invention, ſo form in their Diviſion, ſuch a Rupture in our *Common Union*, as poſſibly may extend to the ſubverſion of the *Civil* Frame.

From the Reſult of this our preſent Argument, will neceſſarily enſue a due Perpenſation of the next *Collateral Impediment* to the Intention, Propriety, and uſe of the Law. The firſt Notion being the common Clauſe of a *Civil* Diviſion, the ſecond of a Relapſe; In Regard that the *Dammage* and *Diſparagement attendeth on the Procedure and Iſſue of the Law*, produceth in the reſentment of the Agitators new paſſion for Revenge on any frivolous Pretence, which frequently are purſued and continued till both the Parties thereby become ruin'd with their Families. To remove this unhaypy Conſequence from the Proceeding of the Law, whoſe proper Object only is, *Suum cuique reddere & conſervare*. It will be highly requiſite to the Propriety of a *Civil* Inſtitution, in Reference to a Plea, that neither in the Iſſue or Perſuit *thereof* be left remaining either ſting or ſcar between the Agitators, which uſually are therein enduced, either by *Perſonal Diſparagement, Indignity or Diſgrace. Or Dammage in Coſt or Delay. Or Burden of the Penalty*. The former and the latter inconvenients may eaſily be rectified in a *Plauſible Summons* only, and a *feiſable Reparation*. The ſecond not without Difficulty; in Reſpect the inevitable charge, which attendeth the Proſecution of a Plea, is not any other way diſtinguiſhable to be avoided, It ſeeming altogether Impoſſible, that ſo numerous a multitude ſhould daily wait on the Proceeding of our *Civil* Agitation without any Advantage, more then the Demerit of the Action. In Reference to the Aſſertion, we may affirm, that there can not be a more honourable or ſatisfactory Imployment deſigned to any Perſon, whoſe fortune ſhall afford him vacancy from the urgency of his own Affairs, inherent to the neceſſity of his own ſubſiſtence, then to lend a voluntary aſſiſtance to ſo important a Miniſtry, according to the Capacity and Number of his Aſſociates: Such was the procedure of thoſe ancient Heroes, whoſe Vertue only lent a more ſplendid Luſtre to the Dignity of their Countrey, then all the Glory of their Victories. In Reference to which pattern he conform'd his practice, whoſe vertue juſtly had entitled him with the Denomination of

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her Essence, * *Cato*, daily repairing from one Court of Judicature to Another, to plead without Pretence of Gratuity, the Causes of the Indigent and oppress, till he was (of a stranger and obscure Extraction) held worthy to become admitted to the highest * Ministry.

* *Sen.*

* Censor.

But admit the parallel (in favour of our Infirmity) more proper for our speculation, then our Imitation; might not Courts of Judicature be constituted in every County at the *Publick Charge*, allowing a sufficient entertainment annually to such a Number of Officiates, as might be fit to mannage the Affairs Co-incident to the Bounds of each peculiar Jurisdiction, whose Number being reduced into several Divisions, might alternately officiate ev'ry Moneth: so that the daily Agitation of the Court yielding a speedy Issue to their Pleas, they rarely could become o're-burdened in their Functions, either to their own Inconvenience, or anothers Prejudice: especially if no Action were admitted pleadable, which had not passed the Allowance of a peculiar Arbitrator, who might be so impow'd as to compose a multitude of Frivolous Debates, which usually do but multiply one another to the Disturbance of the common Peace, and the Dammage and Destruction of the Agitators.

In opposition to which Order may probably be alledg'd, that the inevitable Charge attendeth on the Issue of the Law, cannot possibly encounter a more just and proper Imposition, then that the Burden of the Agitation should fall upon the Injurer. The Objection may pass as an irrefutable Position, provided the Conclusion fall under the Restriction of *a clear Capacity to distinguish*, and *a full Ability to perform*.

But where the sence of the Law is involv'd with such Obscurity and Mystery, as no cause, how bad soever, doth not only finde authentick Promoters to encourage the undertaking, but as impudent Advocates to maintain the Prosecution under a legal formality of Right: And where the inveterate Malice of Man is universally so great, on every slight Advantage to pursue the Opposers of his will to such extreams, as utterly might ruine and destroy them. It plausibly may be allowed very pertinent to the Establishment of a *Civil* Welfare, that the Legislators should reflect on a more happy Constitution of Judicature, then what must of necessity thus cast their joynt Associates into their hands would sell them to the Inemnity and Rage of one Another, in persuit only of their sordid Lucre.

XXXIX. *The Principle* Subjects *fall under Regulation of the* Law, *in Reference to the* Security *of our* Civil *Property.*

HAving placed the *Security* of our *Civil* Property under the due preſcription and Execution of the *Law*, it will be neceſſary to the exact Eſtabliſhment of her work, that we briefly lay forth thoſe accidents which in the infringement of a *Civil* Intereſt, may lend an oppoſition to her Enterpriſe, which viſibly may be compriſed under theſe Diſtinctions, *Fraud, Violence, Injury, Oppreſſion, Fire, Inundation, Exceſs.*

XL. *Of Fraud.*

WHen we ſhall with due Perpenſation reflect on the extent of this *Principle*, in Reference to a *Civil* Tranſaction, It juſtly may produce a wonder in the ſhalloweſt Apprehenſion, that the Conſtitution of moſt Laws, in general, ſo remiſly weigh the Conſequence *Hereof*, as to caſt the Deciſion in the common Ballance of a caſual Treſpaſs: under which indulgence probably the Practice *Hereof* hath ſpread It ſelf into the moſt honourable Profeſſions, and the nigheſt Relations, not only as an Act of Frailty, but as a plauſible Habit in ſufficiency, inherent to the Myſtery of every mans Function in a *Civil* uſe: ſo that we might in Reaſon rather tearm ſome *Civil Societies* Artificial Pieces of diſguiſed Impoſtury, then Eſſential or Agreeing *Communities*: In which Regard we will endeavour to diſcover the *Nature, Prejudice*, and *Regulation Hereof* moſt pertinent to a *Civil* welfare.

The Nature *Hereof* is queſtionleſs a Breach of *Truſt*. Fraud only conſiſting in Reference to a *Truſt*: ſo that we may conclude the *Civil Prejudice*, that enſues the Practice, may reach as vaſt a Latitude, as the Benefit of a *Truſt* can properly extend to in a *Civil* uſage: In which ballance we will caſt the weight of our enſuing Argument, to lend us a more clear Inſpection to guide us in the due *Regulation* of our preſent *Subject*.

Truſt is viſibly the *Band of Common Union*, or the *Principle conduct of a Civil Commerce*; through which the nouriſhment of every Faculty therein becomes conveyed to the ſmalleſt and remoteſt Veſſels of the *Civil* Frame, which received, as a regular Poſition, we may clearly from thence Collect how highly material It muſt be to the Improvement of a *Civil* Welfare to ſecure *Truſt* from all manner of *Fraud* whatever, that it may be preſerv'd

ſerv'd, ſo far as poſſibly we may, in a clear and inſubvertible Purity.

In perſuit whereof, we muſt firſt diſtinguiſh the Nature of a Truſt e're we can reach our Intention, plac't in the extent of the uſe.

In Reference to which Order, *Truſt* is a free Act of the will to impart any thing in our Poſſeſſion to anothers, under the Limit of a Retribution, either ſimply for the Intereſt of the *Truſtor*, or ſoly for the Benefit of the *Truſtee*, or generally for the mutual and common Advantage of either, or particularly for the uſe of neither; but to the uſe and Benefit of ſome other or others ſpecified in the *Truſt*.

From which Diſtinction, in Reference to the Act, we may obſerve two Circumſtances in manner of the *Truſt* to eſtabliſh it Authentick. Firſt, That it be an Act of the *Truſtor*'s free will, not enforc't on him by Violence, Urgency, Neceſſity, or any ſuch Advantage on the Inclination of the will. Secondly, That whatever is tranſacted in the *Truſt* be really without engagement in the clear Poſſeſſion of the *Truſtor*, as his unqueſtionable Property: otherwiſe, that Truſt can prove but an imperfect *Truſt*, which is but raiſed on the Breach of *Truſt* unto another, who may more juſtly claim an Intereſt in the property.

The Object of the Definition extends It ſelf to four Branches, the *two firſt*, and *the laſt*, have ſoly Reference to a *Common Unity*, the *Penultimate* only to a *Civil Commerce*. The *firſt* may reach a Caſual or Impulſive Breach to render It rationally unactionable. The *ſecond*, but with Difficulty may be admitted to ſuch Priviledge. The *two latter* never fall under that Capacity. In Regard the *firſt* Branch of *Truſt* hath only Reference to the Intereſt of the *Truſtor*. The *Truſtee* only accepting of the trouble inherent to the Truſt, as an Office of Amity, which is perfectly diſcharged in his endeavour to effect it; but not reaching the intention of either by caſual or impulſive Accident; the Dammage of neceſſity unjuſtly is impoſed upon him.

The *ſecond* Branch of *Truſt*, where the *Truſtee* only reaps the Advantage of the *Truſt*, meeteth ſome ſcruple in the Diſpenſation of a *Civil* Procedure, on Caſual or Impulſive Breaches of a *Truſt*; inaſmuch as the *Truſtor* pretendeth to no benefit in the *Truſt*. But poſſibly to his own Inconvenience, or other Diſadvantage, for a ſeaſon, hath reſigned the uſe Thereof unto the Benefit and Advantage only of the *Truſtee*: So that in Reference to the Priviledge aforeſaid, on Caſual or Impulſive Breaches of Truſt, We only can, in *Civil* Rules, lay the ground of the *Truſtees* Plea, upon a Right alone unto the *Truſtors* Benignity, rather then in the inefficacy of the *Truſt*, or the Inca-

Incapacity of the *Trustee*. It appearing a high Impropriety in *Civil* Rule to prosecute an Act of Retribution to the Dammage or Destruction of him to whose Improvement or Preservation It only was directed; and where the succor was friendly dispensed, the Advantage Casually failing, a Reparation seems maliciously exacted. But, as the *Trustee*, to whose use only the trust was intended, may seem too favourably admitted to the Exception of a *Civil* Procedure on Casual or Impulsive Breach of *Trust*; so the voluntary or Perverse Breaches of *trust* intended only to the Advantage of the *Trustee*, may seem but too remissly Censured in a Bare Reparation of the *trust*: insomuch, as Pain for Profit must yet make the Return but too unequally Ballanced in a due Compensation of Right, which far more justly might extend to the Advantage, was thereby acquired, as a Retraction of the Intention of the *trust* so infamously infringed.

The *third* Branch of *trust*, which tendeth to the mutual Benefit of the Transactors, is excluded such Capacity; insomuch as the *trust* is formed under a Conditional Contract, in pursuit of a common Lucre, whereof either runs the hazzard of the Adventure by his proper Act, in Reference only to their own Advantages; so that the *trust* infringed, the *Trustee* voluntarily casts himself on the penalty of his Covenant.

The *latter* Branch of *trust*, which requireth only the Circumspection of the *Trustee* to the specifick use of others privately or publickly concerned in the *trust*, can pretend to no *Civil* Incapacity to free him from a Legal Prosecution, in reference to a Breach of *trust*, in that it rests wholly in the Election of the *trustee*, to accept or renounce the *trust*, to separate the Inherents of the *trust* from his own property, or alter or transact them as his own: so that nothing being exacted from the *trustee*, in execution of his *trust*, but his own will, It soly is his will that can infringe it, which tending to so material and charitable an use, failing only in the Retraction and Remisness of his will, he justly may sustain the penalty of his reproachful and injurious Reluctance or Neglect. This *trust* is usually a Testamentary *trust*, which accepted, engageth the *trustee* as his own proper Act, so far as the Capacity of the Subject will extend, which may also be further distinguisht in a *publick* or a *private trust*.

The *Private* so constituted, have frequently this Default, that they seldome reach to the intended use, when as directed to the Behoof of Children, who commonly have most need thereof; in that their present advantage is not only suspended, but the *trust* also many times so oft removed, e're they attain a due Capacity to exact it; that either the Inherents to the *trust* fail,

fail, or the *trust* it self falleth to the Ground, wanting either real or equitable Grounds yet farther to produce it: which defect scarcely will be exactly rectified, but under the tuition of a *Publick* Court, constituted only for the safeguard of such Persons as properly fall under a *Civil Incapacity*.

A *trust* exacted to a *Publick* use, seldom or never reacheth the Intention of the *trustor*, in that the Election is not sufficiently separated from the Interest of the *trustees*, who exercising their *trust*, as if only establisht for the Advantage of their own Relations, mutually assent to the Remonstrance or Intercession of one another, in favour of Particulars: whereas every Member of the *Common-wealth*, under the Capacity of the *trust*, ought to have an equal Priviledge in the Benefit *thereof*. And having, without just exception, attested his Capacity in Presentation, should by equal Lot be cast into a visible and orderly Reception with the rest, from thence to be extracted by an impartial hand. Farthermore, in such partial Elections, all Abuses and Breaches of *trust* whatsoever, become utterly smothered by taking away the freedom of Impeachment from those are soly interessed in the *trust*, in a servile Adherence to the patronage of the *trustees*.

To conclude our Discussion of the Nature of our *Subject*, we may pertinently here insert one General Exception against all the former Branches of a *trust*, That none of them be passed under such a form, oblickly constituted for collateral and implicit uses, not expresst in the *trust*: which Procedure may justly be excluded the Suffrage of a *Civil* Jurisdiction, being the common shrouds to the most specious and Considerable *Frauds* in Practice.

As to those Forms of *trust*, passed on Contracts of *Marriage*, they seem improperly constituted in the Hands of a Particular, or Particulars, of how nigh Relation soever, in that every small Occurrent tending to the inconvenience but of some concern'd therein, have commonly sufficient Influence to o'rethrow the *trust*, unto the Prejudice of the Rest, not of Capacity to yield to the Transaction: so that necessity will lend us a Direction to fly to publick safeguard for Redress; where such Acts becoming totally irrevocable, they may infallibly attain the proper use to which they were directed.

Under which Notion may likewise be comprised *Guardiant trusts*, either Testamentary, Successive, or Elective; which having, for Object only the Benefit of such as are not under a capacity to act either judiciously, or freely for their own Advantages, in respect of their *Civil* Incapacity, or else the strict subordinacy to a nigh Relation. Their Interests (in reference to

many Inconvenients may thereon enſue) might more ſucceſsfully be managed under the publick Tutelage.

Having thus far generally diſcuſſed on the Nature of our *Subject*, we will proceed to agitate on the uſe *thereof* in ſome Particulars; in the Introduction whereof we incounter ſome difficulty, both in Reference to our Order, and Importance in our matter; which is, whether the *Natural* or *Civil* Relation ought firſt to be admitted to a Precedency in *truſt*? The Queſtion may at the firſt Inſpection appear of little Ambiguity, and as little moment, one only exception but reſerv'd: inſomuch, as we have formerly inſerted, that the *Civil* Frame is only form'd from the connexion and concinety of the Natural: yet when the Diſſolution of the *Former* may be threatned in the Preſervation of the *Latter*. We muſt affirm it much juſter, that one criminel periſh in the Infringement of a *natural* Law, then that many innocents ſhould be deſtroyed by the diſpenſation of a *Civil* Ordinance: As in matter of Treaſon, where in every Act of unviolated *truſt*, the *Truſtee* becomes an Acceſſary to the Treaſon; In which Reſpect, the Tranſaction falling between the Father and the Son, the Son may probably claim Advantage from the ſame Law of *Nature* to warrant his Diſcovery, as the Father might exact to enjoyn Concealment. *Quiſque ſibi Proximus*. Yet the Romans held ſuch Primitive Inherencies in ſo great Reverence, that they diſpenced with all *Civil* Tyes in favour of their Rights. A Slave might without Impeachment conceal his detected Maſter, much rather a Wife, a Childe might be admitted to ſuch a Priviledge; though the caſe poſſibly may require a more exact Diſtinction; ſince after detection: the Attempt falls under a Capacity of Prevention: And the concealment then tends but to the ſafeguard of the Delinquent, not to the Promoting the Delinquence: From whence we may conclude, that ſuch Relations may, without Impeachment, be licenc't the Protection of the Criminel, provided It reach not a participation of the Crime: which exception in allegiance interjected, we may without farther ſcruple, accept the *Wife* to the firſt and higheſt degree of *truſt*, ſince on her Faith we caſt the Model of our *Oeconomy* for the enlargement of our Fortunes; and in the Affiance of her Fidelity, we tranſfer them to our Succeſſion. In Reference to theſe two Objects of a *Civil* Union, though perhaps unequally Ballanced, the ſevereſt *Societies* of a *Civil* Juriſdiction have paſſed the Infringement of her *truſt* under a Criminel Sentence, ſpecified in the Interdiction of theſe *Principles*, *Adultery*, *Suborning a Childe*, *Drinking Wine*, *Counterfeiting Kayes*. The three firſt take iſſue from one and the ſame Intention, which is the ſecurity of our own ſucceſſion in a lawful Propagation: the *two firſt* really,

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in regard of the Action. The *third* but conjecturally, in regard of ſcandalous Intention. The laſt particular reflecteth only on the ſafeguard of the *Civil* Property, which in ſuch Infringement of *truſt* manifeſtly tending to a fraudulent ſubverſion; the *Civil* Judicature conceiving them to hold one and the ſame Conſequence in the Intent, lent them but one and the ſame weight in the Puniſhment; yet with this Limitation, that the execution ſhould paſs under the Authority only of the Principal. The *Civil* Juriſdiction, in all Ages, ſeeming very ſcrupulous to intervene in the Deciſion of Differences between Parties ſo intirely united, that ſhould, in Reaſon, but enjoy one common Intereſt; ſo that if any ſuch permiſſion in a Domeſtick Tranſaction were derived from the *Civil* Authority, which might in Reference to the Offence, ſeem too ſevere. It might be concluded, that the Treſpaſs was not only obvious, but of a very high Nature, that ſhould enforce a man ſo to divide Himſelf ev'n from Himſelf, where the very ſenſe of Nature was ſufficiently effectual to leniate the moſt rigorous Auſterity: In reference to which Concluſion, poſſibly, *Moſes Civil* Inſtitution forbore to judge the weight of a Filial Diſobedience to lend it a Criminel Infliction, but commanded, that the Offender ſhould be brought forth by the hand of his Parent; whoſe Bowels would ev'n in the firſt Intention, have relented in a natural Endearment, ſo to expoſe their own Fleſh and Blood to the Fury of the People, had not the offence been altogether held inexpiable, But the Frailty of Humane Nature, in ſucceſſion of Time contracting new and extravagant Corruptions to the extinction of the Natural Light, whoſe Motives now becoming not the Object of their *Union*, muſt not, without Reaſon, fail in her Reſentment, hath juſtly deprived him of ſo material a Priviledge, without a Reference to the *Civil* Juriſdiction. The *Civil* Law not ſo much as admitting him to a capacity unequally to divide his own Goods amongſt his Children, without ſufficient ground confirm'd by legal Procedure: to which Method of Deciſion, we will contract our former *Principles*, that we better may conclude on the equity of their Cenſure.

Adultery can want no other weight to lend it a Criminel Infliction, then the Light of the ſacred Inſtitution, and the practice of the *Civil* Law.

To ſuborn a Childe, muſt without contradiction, in Reſpect of the Conſequence, reach the higheſt Nature of a *Felony*, both in the Contriver and the Coadjutor: Inſomuch as the Eſtate, both Perſonal and Real, unjuſtly is took from the Natural and immediate Inherents to the ſucceſſion. As to the *truſt* conſigned to the *Wife*, which probably might herein alter the Nature of the Treſpaſs; ſince Breach of *truſt* can properly not be exten-

extended to an actual *Felony*: which granted, yet nevertheleſs the *Felony* (not extending to the *Truſtor*, both in Reſpect of his *truſt*, and that he yet remains in full Poſſeſſion of his Property) may notwithſtanding be ſo qualified, extending unto others Intereſt, betwixt whom and the *Truſtee*, paſſed no act of *truſt*.

To drink Wine ſeems but a frivolous offence to counterpoiſe ſo rigorous an Impoſition as *their* Death, and probably may be rather judg'd an Inhibition only appropriated to ſome peculiar Cuſtom or Climate, then an eſſential Rule to form a rational concluſion to a General uſe: yet taken univerſally, as extending to a Habit in exceſs. It may be held more then a conjectural circumſtance to the former impeachment, in that (without Reference to the motive thus viſibly fomented in the Practice) A Woman in ſuch Diſorder can make pretence but to a ſlight ſafeguard of her Honour: So that, both in regard of the Scandal and Danger in the conſequence of the uſe, We juſtly may ſuſpend the Treſpaſſor from the capacity of a *Conjugal* Union, the ground being of ſufficient weight to exact a legal Separation.

To counterfeit Keyes, This Interdiction was probably conſtituted under the uſage of *Polygamy*, where the *Wife* was rather eſteemed the purchaſe of their *Property*, then a companion in *Society*: in which ſervile condition of Wedlock, like ſo many ſeveral Factions, every one endeavoured by all means poſſible to enlarge the Fortune of their own Production, and extendeth only to a breach of *truſt* impoſed on the ſafety of our Goods; wherein, according to the Inſtitution of our Law, the *Truſtee* hath an equal Intereſt, although ſequeſtred from her uſe under the Tuition of another: in which Reſpect the *Civil* Judicature reflects not on the Nature of the Fact, but as a private Treſpaſs, and leaves it only to the regulation of the Principle, in whoſe capacity alone It is to ſeparate His Wife from his *Property*, or his *Property* from his *Wife*.

The *Children* can by the priviledge of their Extraction properly be intitled to no inherence of a *Civil truſt* more then the Father ſhall aſſign him by his ſpecial Order, and in the Breach *thereof*, become only liable to ſuch correction, as the Father ſhall impoſe, without a Reference to a *Civil* cenſure: inſomuch, as they have a collateral Right inherent to the property, and ſhould in Reaſon, need no ſtricter tye to the due Execution of their *truſt*, then their proper Intereſt.

Servants fall under the next Adherence to a *truſt*, which may yet more clearly be diſtinguiſhed in an *Explicit*, and an *Implicit truſt*. The *Implicit truſt* extendeth generally unto the ſafeguard of his Maſters Goods. The *Explicit* lends a more viſible Intima-

Intimation of the Nature of this *truſt*, under the limits of a a conditional Preſcription: ſo that the Infringement of the Implicit *truſt* may properly be tearmed a breach of Contract, though not ſo fully under the Diſtinction of a *Civil* Treſpaſs, as the Explicit is: Yet if the *Truſtee* ſhall under pretence of his General *truſt* appropriate to his peculiar uſe, or otherwiſe alienate the Goods of his Maſter not committed to his charge, the guilt may be extended to a *Criminel* impeachment.

In theſe *Particulars* only is eſtabliſht a *Domeſtick Truſt*, with Reference to a *Civil* Unity. Our order next requires, that we reflect on other forms of *truſt*, which properly may be reduced to a more general uſage, either *Publick* or *Private*.

A Publick truſt is either *General* or *Special*. The General is either *Implicit* or *Explicit*: The *Special* only is Commiſſionary; both are derived from one common *Principle*; *Publick Authority*, and directed to one common *Object*, the *Publick* uſe: So that falling under one common Conſequence in their Nature, they may meet one common Diſtinction in their Infringement, though in Reference to the Subject they handle, ſome have a more material extent of Dammage in their Iſſue then others: every viſible and voluntary Delinquence in a *Publick truſt* extending to a Crime of *leſe Majeſty*, in reſpect, that not only the common welfare or Dammage depend on the Tranſaction: But the Dignity or Honour of a Prince or State become blemiſhed in ſuch miſcarriages, paſſing as his or their own proper Act, either in the Election of their *Miniſters*, or in the order of their *Miniſtry*.

A *General truſt* in *Publick* Intereſt, is what every Member of a *Civil* Capacity, was born to in common Right of his extraction, and may be ſpecifi'd in Acts of his *Allegiance* either *Implicitly*, as a *National Injunction*, or *Explicitly*, as an *Adjur'd Preſcription*. The *former* engageth as a *Civil* duty; the *latter* alſo, as our proper Act. A Treſpaſs againſt the *firſt* order may poſſibly ſeem but to infringe a *Civil* Inſtitution. The *latter* alſo a ſacred Ordinance: The *firſt* may by Act of Grace become reſtored to his Purity. The *latter* juſtly never to be admitted to a *Civil* Capacity.

Special Acts of *Publick truſt*, extending to a *Publick* uſe, may reach a vaſter Latitude. The *National*, *Juſticial*, *Negotiary*, and the *Military*. The two *latter* more properly inherent to the exterior object of our *Miniſter*, we have reſerv'd to their peculiar Order.

The *National truſt* extending to a *Publick* uſe, is the higheſt and moſt material Diſtinction of a *truſt* (implied ſuch under the Licenſe of a free Election) where the people under Commiſſion of the Supream Authority, make a peculiar choice of their

Truſtees to agitate on their common Intereſts, in a *Publick* Convention. How this *truſt* may become viſibly and wilfully impeached in the *truſtee's* proſecution of his *truſt*, is not clearly obvious; where the leſſer Number muſt of neceſſity recede unto the Greater, unleſs it might be imputed to a Remiſſneſs in his Agitation. If any Subject ſhould fall in diſcuſſion, which might poſſibly be repugnant to the peculiar Intereſt of the *truſtors*. The *truſtee* led by Integrity, and Judgement, may, without blemiſh, promote the matter, tending more univerſally to the Advantage of the *Civil* Frame, ſince the whole *Convention* conſiſting of many *truſtees*, can properly fo m but one Body of *truſt*, whoſe object is not the welfare only of ſome peculiar parts, but of the whole Structure. Neither is the *truſt* tranſigned to the *truſtee* by the People, other then a Collateral *truſt*, whoſe original reſideth in the Supream Authority; to whoſe Councel *they* are ſummon'd to conſult on the welfare of the whole *Frame*. So that the Infringement of *truſt* muſt properly be derived, *Either from the Peculiar Exerciſe of their Office*, or the *General Object of their uſe*, inherent to the Principal *truſtor*, and diffus'd from thence to the Collaterals. The Office is ſoly poſited in Council, not in Rule; to Conſult, not to Determine; to Remonſtrate, not to Conclude; to Apply, not to Exact; to Preſent, not to Enact: All ſuch Improprieties in the *Publick* Tranſaction of the *truſtee* may properly extend to the infringement of the Publick *truſt*, if ſingularly not cleared in a Publick Atteſtation.

The General Object of their uſe, is one common Agreement the *Publick Good*; but that *Good* ſometimes not rightly diſtinguiſhed, wanting a due coherence with the Principle, whereas rightly underſtood, the Intereſts of the Prince have ſo nigh a Reference with thoſe of the people, that they are properly but *termini Convertibiles*. The Benefit of the Prince being the Advantage of the People, and the Advantage of the People being the Benefit of the Prince; ſo that of neceſſity, who oppoſeth the one, impaireth the other, and conſequently falleth into a viſible Delinquence of that *truſt*, which was impoſed on Him in the Tranſaction.

The next ſucceeding Act of ſpecial *truſt*, is the *Juſticial*, or *Juſticiary*, which paſſeth alſo under a Commiſſionary Form. This Diſtinction of *truſt* hath apparently a material Influence in a *Civil* welfare, and ſeems but too abſtruſely limited in the capacity of the *Principle*, where ſo many *Subſtitutes* neceſſarily depend on the Tranſaction, unleſs we might conclude them liable to all Miſcarriages, as viſible Defaults in their Election, Suffrage or Incircumſpection, too heavy a Burden for him to undergo, is only called to the ſimple *Expoſition of the Letter*,

and

and the Regularity of the Court. Yet nevertheless, since every material infringement of *trust* must be enlightned by the intention of the will (not distinguishable, but in an equal Remonstrance clearly preceding to exact the Remedy) either in *Opposition, Difficulty*, or *Defect* to our Addresses, may render the said *Principal* impeachable in his *trust*.

Private trust extending to a *Publick* use, holds only Application to a *Civil Commerce*, although ready money, or other visible Commodities may possibly pass in exchange between the Agitators: yet insomuch as there must be in equity, an ultimate rate to every Commodity, which extended either by inessential or adulterate Glosses, serious Attestations, or any other Manner of Circumvention, on the Ignorance, Insufficiency, or Credit of another beyond the *extrinsick* value, is an actual *Fraud* tending to the subversion of that General *trust*, should dignifie and support a *Civil* welfare; in which Respect, the most competent Judge lent the ejected *traders*, no other Distinction then *Thieves*; as *Solomon* had formerly noted their Incapacity to retain their Integrity. This inconvenience hath taken Root in most *Civil Societies*, either through *a Licentious tolleration*, or a *Difficulty in Regulation*. Pretences of Improvement, and Encouragement of Trade probably ushering an Indulgence to the *Former*, while Lux and Neglect lent Obstruction to the *Latter*; every one no farther weighing a General Interest, but in resentment of his own particular: So that the whole Method of a *Civil* Commerce, becomes but one general intercourse of *Pippery*: But it may here possibly be objected, that this Disorder may sooner fall under every Mans Observation, then any Mans Regulation. In Reply we will only return a Pattern from some Particulars, as the common Materials to our Livelihood; which, under sundry *Civil Societies*, have their publick, known, and limited Imposition of Rates, rising and falling, as their depending Exigents require: From which method we may collect a Paralel to a more General usage.

For Closure of our Argument, as an equilibrate to this *Civil* Trespass, in General; we may cast into the Ballance a due Estimate of the essential Dammage in Relation to the Fact; which reaching not a due Reparation to the Offence in a meer impulsive Restitution, being but a bare Consequent to the Casual Discovery: we must yet exact a weightier Imposition to lend the Crime an equal compensation, contracted from the more potential Issue, in Reference to the Intent, where the concealment meets an equal Consequence in the Adventure: It may otherwayes be figured a Game but at half Stakes; where the Winner draws nothing but his own, and the Loser hazzards nothing but Aire, in the Impeachment of his Fame, as the due

Penalty

Penalty only to the Infringement of a Publick Inſtitution, which might juſtly extend to a *Civil* Incapacity.

Neither is the infringement of a *Private truſt* alwayes contained under the Latitude of a *Civil* Treſpaſs, where the Tranſaction hath a collateral Adherence to a *Publick* Intereſt; as may clearly be diſtinguiſhed in the Delinquence of falſe *Moneyres*, and *Diminutors of the true*; whoſe treſpaſs hath not only Reference to the private Dammage of the Receiver, but reacheth the ſubverſion of a *publick truſt*, tranſigned under warrant of the *publick* Dignity, whoſe Majeſty becomes directly blemiſhed in the Tranſaction: So that in the general Conſtitution of every ſeveral Juriſdiction, the Offence may juſtly reach a Capital Delinquence.

Of equal weight, and far more juſtly, in Reſpect of the Conſequence, may hereto be annexed Acts of *Juſticial Perjury*, from whence a Dammage not only is contracted to particulars; but *Juſtice* it ſelf thereby becomes Impeachable, raiſing her Fabrick on a corrupt Foundation, unto whoſe Evidence ſhe had reſign'd her full Authority. A matter of the higheſt *truſt*, where Goods, Fame, Liberty, and Life become ſubverted in a treacherous Procedure. In reference to which Treſpaſs the *Sacred Letter* (according to the Potential and Intentional Conſequence of the Matter) layes an authentick Reparation, in an equal Preſcription, *Then ſhall you do unto him, as he would have done unto his Brother.*

Some other Acts of Private *truſt*, may alſo here be inſtanced, which in their ſimple Nature hold not ſo ſtrict a Reference with the *Publick* Intereſt, though according to the Matter they do work upon, may ſometime poſſibly, with the *Former* hold an equal Paralel, as Acts of *Forgery*; which according to vulgar uſage, ſtrictly taken, is, *Aliquid, Manus Artificio falſi vero Inſinuare*, whether the quality of this Fact may reach a higher nature then a *Civil* Treſpaſs, is not clearly yet determinable. Moſt Laws ſeem in the Nature of their Penalty, which tending but to Infamy, yet leave the Treſpaſſor, ſtill Subject to a *Civil* Reparation; though uſually the Practicers are in a condition not capable of either.

The Conſtitution of the Treſpaſs yet more nighly viſited, we properly may lend the *Fact* a higher conſequence: not only, in that ſuch vilde Tranſactions paſs uſually under the Authority of ſuch *Publick* Forms ſhould guide us to a true Diſtinction in every thing tranſacted, but alſo, in regard the Infringement of a Private *truſt* becometh Introduced by aſſuming ſomething proper to another, not intruſting, as their own; wherein, although the Party not intruſting ſeems to loſe nothing really: yet in Reſpect, it poſſibly may engage his Honour, Goods, and Perſon in the

the Transaction not meeting an exact Discovery. It may be farther justly censur'd as an actual *Felony*, whereby the Penalty may duly be extended to every Person concerned in the Offence. Infamy and *Civil* Incapacity in Reference of the Indignity to the *Civil* Jurisdiction. A *Civil* Reparation, in Relation to the Interest of the *Trustee*; and a Penal Infliction, in Respect of the Dammage ensuing to the Party or Parties not *Trusting*.

As to Acts of Forgery (if we may properly so call them) which tend but to adulterate, corrupt, or otherwayes Sophisticate any common vendable Commodity, they may justly be remitted to the Distinction of a Breach of *Publick trust*, visibly tending to the subversion of a *common Traffique*.

To this Distinction of private *trust* may also possibly be reduced such Transactions, as pass between parties under the common Notion of another, whom they but falsly *Personate*.

XLI. *Of Violence.*

HAving formerly searched into the Nature of this *Principle*, in Reference to the *Security* of the *Natural Union*, we will here Reflect on *it* in Relation only to the *Security* of the *Civil Property*; wherein we may first generally observe, that no *Civil* Trespass whatever more highly infringeth the order of a *Civil Society*, then *Violence*, however figured, being as it were, a private Insurrection against the *Civil* Power; In which regard, 'tis probable our Laws do interdict, that any one in such a *Procedure* should become reinvested in his *Property*, though visibly never so injuriously detain'd: And on this Consideration only have possibly formed the severity of their Penal Statutes against Acts of Felony, which seldom are specifically committed, but under some degree of *Violence*, though frequently the enterprise may finde no Opposition: for whether such Goods assumed were under safeguard of *House*, *Pale*, *Wall*, or *Ditch*, or other Enclosure; yet nevertheless, the indirect Ingression or Extention manifest in the Act, is without other Circumstance a perfect *Violence*, whether *Movable* Goods, and unguarded in *Waste* or *Common*, may properly fall under such Distinction, is not so clearly evident, unless they have a proper Signature, or Brand peculiar to the Bounds of such a Priviledge, besides *that* of the owner: Otherwise passing but under Notion of a Common Stray, the Fact may sometime want Distinction, shadowed with Mistake. As to Goods *Immoveable* or *Wilde*, to which no one can properly lay a just claim of Right, but as coincidents to the Prescription of their own Possessions. The

matter of their taking, though within compass of their proper Bounds, can questionless extend but to a *Civil* Trespass, unless in opposition of their Keeper, if forth their Limits taken, they justly pay the Forfeit of their Dammage.

What other Circumstance in Particular, with Reference to *Place, Matter, Motive, Manner*, or *Measure*, may either aggravate or lenefie the Matter or Nature of the Offence, we farther will endeavour to discover.

The *Place* can lend no other weight to the offence, then what may thereto be appropriated, in Reference to the person damnified; which not extending any farther Detriment, then barely the privation of his *Goods*, may yet be weighed in a higher Consequence, either taken violently from his Person, whersoever encountered, or from his House, the place of his security: Insomuch, as Nature prompting every one to a defence, either in Opposition or Persuit; both equally adventur'd by the Injured, with hazzard of his life, may equally be ballanced with the Forfeiture of his, shall wrongfully attempt the Issue.

The Quality of the materials may sometime amplifie the Nature of the Offence; as Goods consecrated to a holy use, where the Malefactor not only makes an hostile Incursion upon *Civil* Rights, but in contempt of his Creator's Ordinance; yet farther seems to violate and cast off the Rites of his Exterior Worship, should binde us in one common Union by his impious Sacriledge.

The *Motive* may sometime not only vary the measure of the Crime, but also change the nature of the Fact, when every Circumstance therein shall tend but to support the present urgency of Nature; it being but a Reproach unto a *Civil Society*. to qualifie that with the Distinction of anothers Trespass, was properly their own, either in Remisness of their Circumspection; or of Relief unto an useless or languishing Member of their Frame.

The *Manner* also frequently may leniate the Nature of the offence, where the negligence of the safeguard may Minister occasion to the attempters practise, and instigate a facile Inclination to a Design, not formed in his purpose: In which Respect perhaps our Laws reflect on the depriving of our Goods by slight, when under personal Tuition, with no more severity then a petty Larcin.

The *measure* or value of the Trespass can lend us but a doubtful Inspection into the weight thereof to moderate or aggravate the Nature of the Attempt: For as a small matter may sometime prove an evidence to a high necessity or Indigence, so may It often be an Argument of an habitual inclination to a vitious Custom,

Cuſtome, which may yet probably be further diſtinguiſhed in the frequency of the Fact.

Having thus enlightned the Nature of our *Subject* in general with ſome material Circumſtances *therein*. We will inſiſt to agitate *thereon* with more peculiar Reference to the *Civil Property*. Every *Perſonal violence* tending to Alienation, under what Relation ſoever, *Wife*, *Child*, *Servant* or *Principle*, is without doubt a *Criminel Treſpaſs*: not only, in that a private Perſon is thereby uſually reduced into Bondage, and the whole Family ſuffer under the calamity of the Outrage. But the *Civil Society* becomes thereby diſmember'd of a Branch belonging to their *Common union*, in an hoſtile Inſurrection againſt the *Publique* Peace. In which reſpect alone, 'tis probable the Crime ſhould meet ſo high a penalty, wherein, as in other Criminel *Treſpaſſes*, the Dignity of the *Civil* Judicature would yet become more illuſtrated in the Reflection alſo of the Intereſt of Collaterals therein damnified

A *Perſonal Violence* to *Wife*, *Child*, or *Servant* without an Alienation, may ſometime fall under the diſtinction of a *Criminel Treſpaſs*, as in matter of Rape, where not only the *Civil* but the Natural Order becomes barbarouſly perverted.

The *Houſe* may alſo ſuffer actual *violence*, as in Acts of *Burglary*, which Outrage is juſtly cenſured as a *Criminel Treſpaſs* without any regard to the Materials, or ſtrength of the ſtructure; Inſomuch as ev'ry mans Habitation is to the ſafeguard of his Goods and Perſon a fortreſs of Defence. The Sacred *Letter* preſcribes hereto a certain Limitation, in reference to the Time. *If the Sun be riſen on him, his bloud ſhall not be ſpilt*. Whether it were that his Perſon were with the Light become diſtinguiſhable, or that the People, then rouſed from their ſlumbers, were in a capacity to purſue or attache him, is not clearly manifeſt, neither being neceſſarily inherent to the exception, which in the ground of the Interdiction annexed, ſeems explicitely thereby to have changed the Nature of the Treſpaſs. *For he ſhould make Reſtitution*, lending it no other weight in ſuch a Circumſtance, than a *Civil* Treſpaſs, following therein the general Diſtinction of a *Theft* according to the Sacred *Letter*, from whence we may collect new Matter to an Argument Material to a farther Diſcuſſion. Whether it were more Conſonant to Reaſon and the *Civil* welfare to paſs ſimple *Larcins* under the diſtinction of a *Civil* or a *Criminel* Treſpaſs. The prementioned Authority might ſeem to ſilence the pretence of an Objection, had not the ſpreading corruption of Mans depraved Nature daily required a more Rigorous oppoſition. In which reſpect, we will decline the Luſter of ſo eminent a Light, (though it more plauſibly might be our guide,)

guide,) more clearly to diſcloſe the weight *thereof* in every Circumſtance, hath reference to our Frailty in a *Civil* Practice.

In order to the propoſition we may infer, where general Acts of *Theft* fall under a *Criminel* diſtinction, the manner of the Fact is more miſchievouſly proſecuted, on the leaſt jealouſie of Surprize, or a Diſcovery. And the Attempters life once viſibly attainted, anothers Life becomes too ſlight a conſideration to lend reſtraint to farther Inſolence: So that the Rights of Nature often urge to perpetrate an Evil not intended, In perſuit of their ſafety to deſtroy Another; Nor is there Matter to deliberate, when as the pilfering Circumſtance is with the Tragique Iſſue held equivalent. Whereas the Fact extending but unto a *Civil* Treſpaſs, no rational Man would wilfully incurr a greater Hazard to avoid a leſs. Where the *Treſpaſs* is ballanc'd with the forfeit of *a Life*, the Injured proſecuteth the Offender to his farther Damage, without any hope to be reſtored to his *Property*. Where *Reparation* only is the Penalty to the Fact, the *Treſpaſſee* becomes not only reinveſted in his *Property*, but makes a conſiderble advantage of the Injury. *The Reſtitution reaching to a double Retribution, when the Property was taken in the cuſtody of the Treſpaſſor, when alienated extending to a Quadruple or a Quintuple* compenſation, So that every Member of a *Civil* Society is not only hereby animated to a vigilant Circumſpection for the Preſervation, but the Improvement alſo of his Property, which intentive Caution becomes remiſsly abated in a ſupine neglect, where the poſſeſſion ſeems fortified under the ſeverity of a Criminel Infliction.

To which concluſion may poſſibly be alledg'd; that Treſpaſſes of this Nature are ſeldome perpetrated but by perſons of a deſperate Fortune, who are incapable of other Reparation than a Corporal Infliction.

The Objection paſſing for Receivable, may probably on a more exact Inquiſition, fortifie the former Aſſention. When we ſhall duely conſider, that who flie from a certain exiſtence by Induſtry, to acquire an uncertain Livelihood by the daily hazard of their Lives, will, queſtionleſs with greater Terror, reſent the rigorous Impoſition of their Hands, then the Momentary Interception of their Breath. They only become indulgent to Life, who daily taſte of the Indulgences of Life. It being frequently obſerved among Licencious, deſperate, and deboiſt People, that the Innocent, for a petty Salary, will caſt the fatal Lot impoſed on the Criminel.

Perhaps in the Propriety of the Rule may yet appear a farther difficulty. How reſtitution ſhould really be exacted, where nothing can viſibly be Leavied. The *Sacred* Preſcription anſwers the Objection, *He ſhall be ſold for his Theft*; but

ſuch

ſuch Impropriety may be alledg'd in *Chriſtian* Practice not ſo warrantable: Nor was it ſo under the former Inſtitution, but with limitation of time, which not reaching the value of the Treſpaſs, in the Term preſcribed, might probably become renewed, though not explicitely implyed in the Letter. It may alſo fall under ſome Ambiguity; what advantage ſhould be acquir'd from the imployment of Perſons ſo improper for a *Truſt*, and ſo unapt for Labor. As to the *former* Inſtance, we may grant them utterly excluded ſuch capacity; and the *Latter* may be concluded Fruitleſs, without the high ſeverity of their Keepers, which aggravated either by the Avarice of the One, or the ſtubborn remiſsneſs of the Other, may ſometime probably extend unto a Breach in our Humanity. In which reſpect alone 'tis probable the uſe of ſlaves have ſo long been ('mong civiliz'd Nations) quite aboliſhed. But the Impoſition equally remitted to the vigilance of the *Juſticiary* Power may probably meet an Inſtitution more approveable, which being appropriated to the advantage of our Foreign Plantations. The *civil* Frame would not only be diſcharged of a prejudicial and ſuperfluous Burden, but reap a common Benefit from their impulſive Induſtry.

XLII. *Injurie.*

UNder the Latitude of this *Subject* is formed the Dimenſion of every *Treſpaſs*. But what Rule ſhould lead us to the Definition of *Her* Nature; is not clearly obvious.

Cuſtome and common uſage have made prepoſtrous Incurſions on the Rights of *Nature*; and no *Civil Authority* ſo exactly refined, but overſway'd by Mans common corruption, wilfully digreſſeth from *her* Principles, though the *Sacred Preſcription* hath viſibly rais'd *her* Inſtitution on *That* Moddel, *what ever you would that others ſhould do unto you, th: ſame do you unto them*; from whence we may ſafely conclude, that whatſoever we do unto Others, we would not have done to our ſelves, is an unqueſtionable Treſpaſs juſticiable by an Ordinance ſecretly recorded within our proper Breſt, whatever in Repugnance may proceed from the Reſult of humane Inſtitution, we muſt appeal to this high *Tribunal*. Not only to reſtrain us from the Prejudice of others Intereſt, but alſo in the Legal Proſecution of our own, to leniate and allay the rigor of Decrees, enacted to ſuppreſs our growing Evils. Whoſe Execution elſe might poſſibly ſubvert the Nature of a *Civil* Inſtitution, Inſiſting on extreams of Right to render Right injurious. But though every man hath a competent Impreſſion of this Light

to guide him perfectly in the Decision of his Rights, yet few men have Integrity to follow it. Avarice and Animosity, both furiously persue and passionately embrace the heaviest Imposition can be warranted by Authority; so that it will be very material to the useful *Ministry* of a *Civil* Jurisdiction, not to yield up Her sword without Reserve to any, though the ground exacting It, be never so considerable, lest a vindictive Fury should press the Consequence to the Subversion of a joynt Associate. The severity of the *Letter*, being constituted to suppress an Evil, more by Awe then Act. In which respect, it will be highly necessary, in reference to the *Trespasser*, to distinguish of the Manner of the *Trespass*, whither *voluntary* or *Casual*, though the *Civil* Jurisdiction adhering only to the Matter, do make no difference in their Nature. Forasmuch, as *Trespasses*, under the *First* distinction, may justly merit the severest penaltie, clearly figuring a presumptuous disbanding from the *Civil union* in an insolent infringement of the publick Peace, whereas *Trespasses*, under the latter Distinction, removed from the Intention of the will, meeting a plausible Reparation in a voluntary Restitution become not, under a *Civil* Permission, justly Actionable, nor must we so strictly adhere to the *First* Circumstance of the Fact, as to neglect the *Latter*. Since either making a Retraction from the Procedure, may possibly change the Quality of the Distinction, what being *voluntarily* commenced, in the timely Reluctance of the will, becoming as receivable, as the *Casual*. And what *Casually* produced, maintained in an obstinate opposition, becoming as insupportable, as the *voluntary*, which Distinction seems implicitly enfolded in the Imposition of the Sacred *Letter*, where the reparation of every *Trespass* extending *to a Fifth part more then the Trespass*, was the highest Estimate to a voluntary Restitution; but where the *Trespass* was so perversely defended, as to be brought to a *Justiciary* Audience, the Reparation instituted, *was double the value of the Trespass*.

Subsequent to this Distinction in a Civil *Trespass*, is that infrequent usage, which our Practitioners reduce under *Real* and *Personal* Actions. The *Real* properly taken, issue from some *Breach* of Contract formed under *Speciality*, and receiving such Distinction, in reference only to the Extent of the engagement, which passeth to the *Real* Possession of the deceased *Trespassor*, though legally remov'd to his succession. The *Personal* hath simply an Adherence to the Person of the *Trespassor*, without collateral Reference to his Succession or Successors, and properly doth terminate with Him But as the Intention of the *First* Distinction becomes too often frustrated by the

the fraudulent mixtures of ſundry Intereſts collaterally conſiſtant with the Treſpaſſors. So the *Latter* may ſeem not altogether properly ſo limited; in reſpect the *Treſpaſſor* deceaſing, e're the Agitation of the *Treſpaſs* is determined, the *Treſpaſſee* is totally left void of reparation, though the advantage of the *Treſpaſs* be poſſibly tranſlated on the Succeſſor of the *Treſpaſſor*; to the no ſmall impropriety in a Civil Inſtitution.

A *Perſonal* Treſpaſs may ſometime poſſibly fall under the infringement of a *ſpecial* Contract, where uſually the Letter lends a Rule unto the Law; but falling under the omiſſion of a verbal Covenant, the weight thereof may reach too high a Conſequence, to lend *it* an exact Deciſion from auricular proof; Inſomuch, as the Principles have not waded into ſo mature a conſideration, as to become exactly underſtood to one another, much leſs unto an unadviſing Auditory, who eaſily become diverted from a Subject, wherein they totally ſhould be diſintereſſed, to render thereof an Authentique Evidence.

Having thus far made Inſpection into the General Nature of a *Civil Treſpaſs*, we farther in particular will adviſe of the Extent thereof, in Reference to each peculiar *Property*, inherent to a *Civil* uſage.

The Dignity of a Family materially conſiſting in the Honour of the *Wife*, we properly may *Firſt* reflect on ſuch Aſperſions as tend unjuſtly to defame her Conjugal Fidelity. Not only in reſpect of future blemiſhes, may thereby be transferr'd on her ſucceſſion, to a laſting prejudice: but alſo in Regard the preſent welfare of *this Civil* unity, chiefly depending on their mutual Love, is thereby ſhoke, if not ſubverted in the enſueing breaches of undermining Jealouſies, which oftentimes break forth in Tragique Iſſues; ſo that it will become highly material to the ſafeguard of a *Civil* union, that the *Civil Judicature* ſhould make a conſiderable defence againſt ſo important a Diſorder: not to the ſuppreſſing of ſuch ſcandals as are implyed only under the ſtrict Notes of their Formalities; but ſuch licencious Imputations alſo as become ſhadowed with artificial and diſguiſed Gloſſes, extending to opprobrious terms of Infamy, though ſuch general Notes of Obloquy, may paſs as unimpeachable, ſeeming but to figure an unadviſed paſſion; no purpoſed deſign of Malice, in reſpect, that if ev'ry ſuch momentary diſtemper of the Mind might lend our Frailty ſuch a Priviledge, no miſchief but would find a ſhelter under ſuch Protection: and though the *Civil* Judicature ſhould impute it but an Act of Paſſion; the common Auditory will ſcarcely ſo interpret it, in whoſe cenſure alone, the Fact becomes injurious and impeachable.

Farther-

Farthermore, the *Civil* Juriſdiction declining in the Procedure, the protection of the innocent in a plauſible ſatisfaction, exaſperates the fury of incenſed Parties to proſecute a Reparation of their own Election, which frequently extending to a deplorable Iſſue, reverts the Guilt upon the *Civil* Faculty; whoſe remiſs Inſtitution had lent Licenciouſneſs to the fomenting of ſo high Diſorders.

This ſcandalous *Imputation* extending to a *Criminel* Impeachment (according to the Conſtitution of divers *Civil* Juriſdictions) may farther juſtly meet an Attribute of a higher Nature then a *Civil Treſpaſs*: although moſt *Laws* have (under ſuch a Reference in their cenſure, not viſibly implyed ſuch Diſtinction. Where the Charge is ſo invectively inſiſted on, that the Life of the Innocent becomes caſt into a doubtful ballance. To warrant the aſſertion Regular; we ſhall need to inſert no farther proof, then what we may collect from Sacred Practiſes, as the Prophets Impoſition on *Suſanna*'s malicious Proſecutors. So likewiſe other *Treſpaſſes* of Defamation reaching to a Criminel Impeachment (though ineffectualy ſucceeding in the Proſecution) incurr equivalent Infliction, though perhaps it may be inſtanced, that Laws have in the weight of each Tranſaction, no other Object to direct their courſe, then the Reſult of thoſe occurrents onely fall in Act, without reflection on the Intentional, which rarely are diſcoverable.

In anſwer to the Objection is reply'd. That every general *Axiome* of ſuch Dignity, to become proper to ſo conſiderable a *Structure*, ought to have ſuch *Solidity* in the Poſition, that every Branch *Thereof* ſhould alſo thereto become Regular. But the true Efficacie of this Rule hath but uncertain Tenure. As we may viſibly inferr on Acts of *Slaughter*. Where the Fact becomes diſtinguiſhable in her Nature, only by ſuch Circumſtance, as may give Light to the Intention. And in matter of *Treaſon*, where the intention only (without any reference to the Fact) becomes impeachable.

But where ſuch *Defamation* extending to a *Criminel* Impeachment is legally not proſecuted. The Nature thereof queſtionleſs, may properly be diſtinguiſhed within the Limits of a *Civil Treſpaſs*.

Farthermore, Since all Acts of *Defamation* are no other ways Actionable, then as they may become prejudicial to Life or Livelihood. We may here alſo reflect on the Capacity of the *Wife* in reference to a *Civil* Function, which ſometime, poſſibly, may be divided from the Husbands Commerce. And in Aſperſions ſhould impeach the Fame in *Civil* Rules may bear an equal weight, as if ſhe were the *Principle*. But where the Imputation

putation can visibly extend to neither Life nor Livelihood, the *Trespass* may more properly fall under Regulation of the *Moral Censor*.

The *Sacred Letter* intimates a *Trespass* in Reference to our present Subject, not so exactly visited under the Constitution of most Laws, on casual Mischances, which in Disorders of others, happen to women with Childe, to the Destruction of their Fruit, where the Punishment was at discretion of the Husband, and the Fine under Censure of the Judge.

Whether in the voluntary separation of the *Wife* from her Husband, the Suggestors and Coadjutors become liable to a *Civil* Trespass, may possibly sometime meet Exception, where the fury of the Husband is so violently pursu'd, That the safety of her Person is visibly endangered, and that the manner thereof be no farther protracted, then the *Civil* Magistrate may be truly informed of the Disorder; Insomuch as every Member of the *Civil Union* is on every occasion obliged to become assistant to the Publick Peace, but where the Opposition is continued, without Remonstrance, or Allowance of the *Civil* Rule, the Procedure is *Civilly* Impeachable, under what Relation soever it be shadowed: All other Trespasses extending to the Infringement of the *Civil* Order, are only common to the *Wife*, with other Persons of the *Civil Frame*, however Qualified.

Nor can the Dignity of a Family be intirely preserved in the safeguard of the *Conjugal* Reputation, were the Constitution of the Law herein never so exactly constituted, where the translation is not supported in a Regular adherence to the succession: In which Respect, we must here Reflect upon such *Trespasses* as have a Reference to the Interest of the *Father* under the Relation of a *Childe*; who frequently are seduced to their Infamy and Ruine, and the irrepairable Discomfort of the Parents: And although the mutual Agreement of the Parties herein transacting may seem to take away the Nature of the *Trespass* transacted, in Reference to the Interest of the Principle peculiarly herein concern'd, *Volenti non fit injuria*, Yet in Regard the Inclination of the *Seduc'd* is usually too fraudulently acquir'd to lend the Procedure such a Priviledge, where solemn vows and Imprecations are the preface to pretended Contracts; which wanting other Evidence then the Interessed, the Infirmity of the credulous is betray'd to common Infamy: on which Credible Suppositions, the *Civil Law* erecteth a positive Institution, exacting for Reparation to the Abuse, a competent Dow'r to the deluded party. And in reference to the Parents Interest, depending on the Consequence (The will of the Childe being according to the Rights of Nature, on which the *Civil* is erected, but subordinate to the Parents Direction) Were the Fact first

qualified with all due rights of Honour, not reaching a *Paternal* Priviledge. The Attempt in reference only to his Dammage falls under a Criminel Infliction; the weight of which Prescription seems implicitly enfolded in the *Sacred Letter*, where the Trespassor was not only enjoyn'd to *Marry the Seduced, but to give the Father also Satisfaction for the Trespass:* Insomuch as the *Father* may probably pursue other Advantages in the Alliance of his Childe for the Honour, Support, and Advancement of *his* Family then visibly is distinguishable: Besides the Comfort and Delight might Issue from the satisfaction of *his* proper Choice, in an agreeable Succession: whereas other surrupticious Proceedings tending to smister Purposes, prove frequently the destruction of the *Childe*, and a lasting grievance to the Family.

Servants hold usually their Adherence to their *Masters* Interest under a special Contract, and can, without their License, not equitably be sequestred from their personal Devoyr, under the Authority of what Relation soever; except the *Publick*: in which all private Interests, but collaterally involv'd, may possibly receed to such Injunction. Yet to preserve the Dignity of the use, it were material, that it should legally be exacted, but as the latest Remedy unto the highest Exigents, in favour of the *Civil Commerce*, the chiefest Column that supports a *Civil Union*.

Such Sequestration may also be considered, as *voluntary*, or *Impulsive*. If the Act proceed from the mutual concurrence of the *Servants* will, with any others, shall retain him from *his Masters* use. Both parties may therein joyntly or severally become Trespassors.

Nor is it yet improbable, but that a *Servant* oftentimes may be suspended or Restrained from his *Masters* use *Impulsively*, where others violence shall either Intercept his Industry, or actually disable him from his Imployment; in which the Reparation justly may exact a double Penalty, in Reference to the Interest of the Principal and the Collateral, as also to the satisfaction of such Breaches may ensue thereon unto the Common Peace.

Whether the *Master* in Correction of his *Servant*, disabling him from present use, become liable to a *Trespass*, in Reference to his suffering, is not exactly obvious, in that the Servants Industry is but the Masters Benefit: Yet nevertheless the *Sacred Letter* seems to imply a compensation to his prejudice, *Equivolent to his Service, extending to Privation of a Part*, though inconsiderable, perhaps but to restrain the fury of the incensed, in Authority, by his proper Interest: But where such disability inflicted shall extend the tearm of Servitude, the *Trespass* is indubitable.

On

On what ground the *Female Servant* is enfranchis'd from her Contract, on Transaction of her Nuptials, under the favour of some Laws, is a difficulty not easie to unfold. If the Priviledge be authoris'd from the *Publique* Benefit, may probably ensue the change of her Condition, in the advantage of a useful Succession; the consequence can take no weight from the distinction of her Sex. In that the Male excluded from the grant of such a Priviledge, is equally endued with the same capacity; so that the Procedure must be admitted totally inscrutable, or partially inequitable.

Under the distinction of *Office*, may properly be imply'd the Nature of our *Civil* Faculty or *Function*, which either *Publique* or *Private* is sundry ways impeachable in a common Prejudice. The highest and most visible subvertors of our Interest in this *Property*, are such Disparagements or Imputations, as may infringe our credit in the Ability or Integrity of our *Civil* Faculty, on which especially depend our Livelihood. Nor can peculiar Interests be herein secur'd, without the Circumspection be assign'd by Civil Ordinance, to such Principles may regulate the Order of their Faculty. Admitting secluding or suspending from their Practises, as the Capacity or Comportment of the Pretenders or Associates may usefully exact, lest promiscuous Intrusion might vilifie, corrupt, or otherwise impeach the Intercouse of *Commerce*; of which Nature unpractised *Novitiates* may be instanced, who not attaining the perfection of their *Faculty*, Infringe the Dignity and use thereof, should render it to advantage more communicable. In which obstruction also to the common Benefit, may also be annexed *Foreigners*, who with adulterate Glosses, new Appearances, and strange Varieties possess the vulgar (incompotent to judge) in credit with their loud sufficiency, that the most skilful in their *Faculty*, become totally declin'd in their approved Ministry. And the whole Society discouraged in their undertaking, not only to the Private but the Publique Prejudice.

All the succeeding Adherents to a *Civil* Interest, *House*, *Lands*, *Goods* and *Chattels* may properly in reference to our present Subject be reduced under One and the same Forme of Discussion. Since they fall under one common Capacity of Dammage which taking yet Original from distinct Principles may joyntly (with like reference to such Order) receive their Agitation: every Civil *Trespass*, in Relation to the *Last* inserted Properties; issueing either from some former *Contract*, *Trust*, *Intrusion*, or *Casualty*. *Contracts* are either *Special* or *Verbal*; the special pass under intimation of the Letter; the *Verbal* take Distinction from the Intention of the Word. Both in a clear and warrantable Testimonie, fall under One and the same common Estimate

Eſtimate, though the *Latter* ſeem uſually derived from an unadviſed and irregular Proceeding, much ſubject to Corruption, nor uſually extending a *Perſonal* engagement. The *Former*, more maturely tranſacted, is with more Difficulty retracted, and uſually conveigh their force to a ſucceſſive Inherency; Both in their diſtinct Notion (as formerly imply'd) lend Rules unto the Law. Yet with this Limitation, that the Contents thereof, become no way repugnant to any one Preſcription of the Law. No private Act being Legally receiveable, which tendeth to infringe a general decree. Our Laws extract the weight of ſuch an Introduction only from the publique Intereſt; as in diſanulling Private Acts intending to conveigh Poſſeſſions, that are Real, when wanting ſuch or ſuch Formalities. The Civil Law more frequently forms an exception to the Procedure, in reference only to the Private Intereſt. As in Repeal of Private Acts are conſtituted to paſs away Eſtates are real, under ſuch or ſuch Proportion to their value: or, in Redemption to tranſfer Them to Proximity.

In which Reſpect, it will be highly neceſſary to the exact ſecurity of our common Intereſt, that they might be paſſed under ſuch Remonſtrances as might not only lend them a *clear Authentique* and inſubvertible ſenſe in the Letter, to conveigh the intention of the Act, under *Allowance* of the *Civil Power*, we might be freed from the Impoſturie of *Schicaneurs*, Seditious vermine to a Common welfare, and reproachful Impeachers of the Dignity of the Law. But alſo to remove all obſtacles might fruſtrate the Fruition of the Right Tranfacted. The Law muſt elſe in the Permiſſion, but make work for *her* Miniſters, leaving an entrance to ſuch *Treſpaſſes*, may poſſibly not fall within capacity of Reparation, which more effectually cannot be conſtituted, then under Publique Regiſter, as an exact Recogniſance, where every contract might take place according to Precedence of their Introduction, without diſtinction of their Nature, in reference to a Priviledge in their Order, might lend them weight to ſupercede each other. No conditional contract under limitation of Time ſuſpended longer from a Legal Iſſue, then the uſual Term of their Preſcription, leſt any One might interpoſe Anothers Proſecution. So ſhould the Inception of every Contract be void of Error; and the Iſſue free from Circumvention, which ſhadowed oftentimes with other ſpecious Forms of ſurety involve us in a certain Deffidence in every Tranſaction, from which no Caution can deliver us.

Such Forms of ſpecial Contract, falling under a viſible Diſtinction of *Truſt*, may alſo uſefully be removed from the ſhadow of ſiniſter Practiſes under Regulation of the Former Methods

thod; whose Nature, Use and Difference, having sufficiently (in Reference to the Capacity of our *Treatise*) been enlightned in the Discussion of another Principle, we will omit here farther to insist upon.

Acts of *Intrusion*, depending only on the Will, seem to take on a Nature of Infringement, in our common Right, too remissly treated under so favourable a Distinction, as a *Civil Trespass*. Though tending but to the subversion of a Private Interest. Insomuch as the *Civil* Order is infringed also in the Procedure; which otherwise is so jealous of incroachments on her Rights, that we are thereby interdicted to assume our proper Goods in the possession of another; though visibly never so injuriously detain'd, but under Form of *her* Prescription: much less not on our own Presumption, to be invested with Anothers *Property*; which Institution is directed to a considerable use in the composure of the *Civil Union*, whose Consequence might else meet Acts of such Hostility, as possibly might shake the structure of the *Civil Frame*. In which Respect, our present Forms of *Conjectural Ejectment*, are happily, of late, admitted to a Legal Procedure in the Decision of a Title.

As *Trespasses* of *Intrusion* are by the *Civil* Jurisdiction often censur'd too indulgently; so *Trespasses* of *Casualty* are sometime by the Law too rigorously persu'd, where the joynt interest of the *Trespassor* is equally involved in the Accident, as in common Damage by Fire, which may possibly seem equaly impos'd on Him, that was the first visible Motive to the Accident, in that under the severity of such an Ordinance, we should become more vigilant to avoid occasion might minister unto so dangerous an Event. Yet nevertheless, in regard, the most advised sometime may incurr the *Casualty*, in which his proper Interest being sufficient evidence to clear him of Neglect; the publique Interest might more plausibly sustain the Damage; which only is endued with Capacity to stop the Issue of such violent Erruptions.

XLIII. *Oppression.*

UNder the common Influence of *this Principle*, may probably be imply'd, all the Calamities can tend to the subversion of a *Civil Society*. Nor can an Evil to the sense be Figured from the severest Menaces of Heav'n, whose Extraction may not arise from this Original, either, as a Judgement to *It*, or as a Judgement in *It*, *That* may be figured in *Ægypts Misery*, *This* in *Furies Captivity*. Oppression being the com-

mon Pretence to every Inſurrection gainſt the *Civil* Power; in whoſe Suppreſſion frequently is urged a neceſſity to impoſe *It*. So that in reference to our mutual Intereſt with the Magiſtracy, united or divided. It will be equally requiſite, that the *Civil* Power be not too rigorous to exact, nor the Subject too ſcrupulous to ſuffer. We need not to inſert a farther proof to lend more weight to the Poſition, then what we may extract from the Commencement of our late Diſorders. In which conſequence the Tranſactors were enforced to perſue extravagant encroachments on our Liberty, attempting to ſecure ſucceſsful Miſchief in Impunity. But to lend a clearer evidence to the Aſſertion, it will be uſeful truly to diſtinguiſh of the Nature of our *Subject*, which thus may properly become enlightned. *Oppreſſio eſt, quicquid ſub forma Juris, ultrà Juris Præſcriptionem, ad exiſtendi Difficultatem à nobis Exigitur. Whatſoever is exacted from us under the form of Right, beyond the Preſcription of Right, to reduce us to a difficulty of exiſtence.* Which Expoſition erected *on a Form of Right* may poſſibly ſeem limited within the Faculty of a diſtinct *Juriſdiction*. In that, the Inſtitution of Right is properly peculiar only to a *Civil* Power ſubordinate to none. Yet in reſpect the general Quality of Right extendeth to a vaſter Latitude then a *Civil* Preſcription, as we may perfectly diſcover in the Rights of *Nature* and of *Nations*.

The *Firſt*, diſtinguiſht in Humanity, the *Latter* rais'd on Cuſtomary Forms. The Nature of our *Subject* may extend to ſuch Acts of Hoſtility, as are impoſed on us by a foreign Power beyond the Rules of their Preſcription. Yet ſince it falls not in Capacity of a *Civil* Juriſdiction to regulate the Conſequence of ſuch Diſaſters, more then in a timely Circumſpection to divert, oppoſe, or otherwiſe prevent the Incurſion of an Enemy, which being a *Subject* more properly inherent to the *Foreign* or *Exterior Object* of our *Miniſter*, we will remit to Treat thereof in our premiſed Order, Inſiſting here to take a view on the Diſtinction of our *Subject* in Reference onely to the National or Interior uſe of our *Community*.

In perſuit of our Propoſition; having extracted the Nature of our *Subject* from a Dependence of Right. Which Faculty peculiarly inherent to the Capacity of the *Civil Miniſtry*, either in Permiſſion or Commiſſion; either Allowance or Preſcription. The weight of this our Argument may ſeem only to reſt on the Ballance of the *Publique* Faculty. Yet ſince from the ſame general Influence of Right is derived a Faculty in Right, diſtinctly inherent to every Member of the *Civil* frame, we ſeverally may reflect on their Tranſactions in order to the Parts of our *Diſtinction*.

Farthermore, from the enſueing Branches of our *Diſtinction*,

on, may possibly be inferr'd, That the Nature of our *Subject*, *plac'd under a forme of Right extending the Prescription of Right*, doth not only require the Authority of the *Civil Jurisdiction* to lend *It* such an *Attribute*, under the Influence of whose Rules, Right only is distinguishable. But in such Ordinance Prescribed, may seem to take away the Matter, in the Circumstance, should qualifie the Nature of our *Subject*, since the exaction, should pass the Bounds of such Prescription, doth fall within the Limits of a *Civil* Rule: In which conclusion would arise an impropriety not feisable. That the true Nature of *Oppression*, so figured, can neither be consistent with a *Civil* Institution, nor without It. To remove a pretence to the exception, we may infer, That every perfect Ordinance in a *Civil* Rule is not only formed under Circumscription of a *Divine* and *Natural Institution*, but in the Object of *Her* proper Constitution (our common Welfare) establisheth a Rule, but truly qualifies *her* Nature: so that to infringe that Order should sustain *her* Structure, or to digress from the Intention of her proper work in the Contexture of *her* own Injunctions may properly imply what is inferr'd in our Distinction. *To exact that of us under a Form of Right, which is beyond a due Prescription of Right.* Nor can It be consistant with the Nature of a *Civil* Regence, under a form of Right, to exact without Prescription, since in such Procedure, the *Civil* Power casts off the Ornament of her Investure, to take on those, are only proper to Hostility. So work a certain dissolution in her Frame.

Whether a *Customary* Right extending to a *Civil* Prescription should bear an equal weight in our *Distinction*, may meet a high perplexity in the Decision, since every *Customary Right* within their Circumscription becomes equivolent to a *Civil* Ordinance, under Tuition of the *Civil* Suffrage, though totally repugnant to the Constitution of *her* general Order. An impropriety scarce receivable in a *Civil* usage. That the Influence of a Decree should neither move equally nor universally to every part of like Capacity, to discover the ground of such a Priviledge, were not of little moment to the rational Establishment of a *Civil* Institution. In persuit of the enlightning may be inferr'd, that *her* admittance to a *Civil* Allowance may possibly meet divers Occurrents scarce obvious to the nicest observation, involv'd in the obscurity of many Circumstances are lost in the Elapse of Time, and sundry changes. The most visible and frequent may take original from these Particulars, *Circumvention*, *Opposition*, *Improvement*, or *Necessity*.

Under the *first* Intimation, the *Gibeonites* frustrated the Ordinance of the invading *Israelites*, in shadow of a Covenant, but syrupticiously acquir'd; whose subtlety, nevertheless, met but

but the Imposition of a slavery, *To be Hewers of Stone, and Bearers of Water.* In Reference to the *Second*, may be instanc't the *Kentish Immunity*, freed from a *Civil* Prescription, in Attachment of the *Conqueror*; which grant was nevertheless *signed* with the Blood of the *Conspirators*, under the Reward of *Treason.* The two *former* Occurrents, transacted impulsively, or beyond the Intention of the *Civil Jurisdiction*, can equally not be charg'd on *her* Account, more then in the Immaturity of Consultation, which not impowr'd to recede from the Injunction of her proper Act, without Impeachment to *her* Dignity may justly enterpose a *Penalty* to Counterpoise the *Fraud* or *Violence*, and execute the Incroachers on *her Rights* in a signal Infliction, invested with the Rights of so singular an *Immunity.*

The two *Latter* Inducements may plead a more plausible Reception to their Establishment, pretending only to the Advantage of the *Civil Frame*: As in the *Publick* Devastations of *Towns*, *Cities*, or *Harbours*, by eminent Disaster. The *Civil* Jurisdiction sometime is enforced to invite Recourse of *Forreigners*, to re-edifie and re-populate such Scituations, with the Advantage of some new *Immunities*, peculiar to their Habitations. So on urgency of Affairs, where Receipts of Commerce, *Ports*, *Harbours*, Places of Defence, are on the Borders of a *Civil* Circumscription, peculiarly erected for the common Safety or Encouragement of Trade. *Immunities* are often granted by the *Civil* Power for the Advantage of the *Common* Welfare in a plausible Institution. But where the cause of such Establishment shall cease, or where no Ground for such a Priviledge can be suggested; but the Inherents of equivolent Capacity with any other of their joynt Associates in the *Civil* Frame. Such *Graces* are unequally enlarged or continued under Allowance of a *Civil* Institution, in that those singular Advantages may frequently impeach a *common* Interest, either in Opposition, Diversion, Interception, Obstruction, or Impediment in a common Procedure or Commerce, or other *Civil* Transaction.

Having made Inspection into some Parts of our *Distinction*, we will assume the overture of the *Sequel*, to which alone the Induction holdeth Reference; since whatsoever is *Exacted under Form of Right, and beyond the Prescription of Right*, must also be extended *to the Prejudice of our Existence.* To intimate the Nature proper to our Subject, the burden must be heavy, under whose support a man is forc't to stagger. Nor is the burden judged by the weight, but by their Faculty on whom It is imposed, which yet more clearly to discover, it will be requisite here farther to imply how far the Bounds of such a *Difficulty in Existence*, as is figured may really extend. In order to the Inquisition

quisition, we may infer a double *Faculty* inherent to *Existence*, the *Natural* and the *Civil*; and though there may appear too vast a Latitude between their Exigents, to cast them *Both* into one common consequence: yet since they have so inseparable a Dependence on each other, that the continued Breaches in the one, are but infallible Progressions to the Ruine of the other. We may admit them to an equal Perpensation in their several Distinctions.

The *Natural* Existence falls under a prescription of Humanity, not only, not to impair, but to secure. And though the *Civil* Power seem frequently to cast restraint upon her Impositions, in reference to the Incapacity of our *primitive* support, (whereon *her* Fabrick is erected) without reflection on the *Latter*, plac't in the Constitution of *Her* Frame. Yet the Concession issues at so wilde a Distance, that the relief may rather figure Remedies applied to a dying man, then timely Comforts to secure the living, desisting rather to exact from whence naught can be levied, then at a farther Distance to forbear in Apprehension of a future Exigence. To form the Institution more considerably adjutive to our frail Composure, such Exigents fall under the Tuition of the *Civil Ministry*, as passive Breaches in *her* proper structure, who should fore-run the Incidents in a timely Prevention, either in an useful Imployment, or in a considerable support, agreeing to their proper and distinct capacities. The Object of a *civil* Institution being to improve our Natural Condition, not to abandon us in such Extreams, might thrust us on a Savage Protedure, but to sustain our Frailty, when Natures Score becomes sequestred from our use by *Her* Prescription; so that the urgency of our Being must now of Necessity, fall under a *Civil* Distinction, which may properly be limited in *Order*, *Decency*, and *Sufficience*: Under the Prescription of the *First*, to avoid Confusion; under the *Second*, Reproach; under the *Third*, Indigence: And though the two *Former* Dimensions appear of little Moment in Competition with the *Latter*, yet duly examin'd from their Dependents only are deriv'd the very Essence of a *Civil Constitution*, which is not plac't in those ostentive Investures, that seem to claim the Homages of Honour from a vulgar Sense: But what may free us from the insulting scorn of others, and our own dejecting Inconveniences; Improprieties are truly inconsistent with the Nature of a *Civil* Association, which requireth a due concinety of Parts to the Establishment of an exact *Community*: So that the *Civil* Indulgence will be of little Efficacy to the Security of our common *Properties*, if totally abandoned to the unequal Advantages of one another, when *necessity* shall urge submission: The highest *Tyrant* in a *Civil* Translation, which the *Civil Jurisdiction* weigheth not,

as passing under warrant of our proper will, though oftentimes not in Capacity of a free Election, bound in the Fetters of more pressing *Evils*, *With such Advantage* Jacob *wrought on his Brothers extremity, to supplant him in his Birth-Right*: which Practice is so far become a general Habit in the *Civil* Frame, that common observation justly hath entitled us but *Wolves to one Another*: so that the most considerable Relief can be expected from the *Civil* Power, in Reference to such Grievances, is to secure us from the mutual Rapine of one another.

Publick Exigents may sometime possibly require high Impositions for our common safety, beyond the visible Prescription of the *Civil* Institution, either in *Measure*, *Matter*, or *Manner* of their Levies, which closing in a more advantagious Restitution, then any *Civil* Commerce can pretend to. The Blemish of the Procedure will easily be avoided, and form of each mans Private Store a *Publick* Treasury. Such is the present Practice of the most advised * *Society* in *Civil* Rule, to exact without a Legal Formality beyond a private Capacity, or without a *Publick* urgency, were but to make so sensible a Fracture in *her* proper *Frame*, as possibly might leave *Her* destitute of Aid in times of highest Exigence, rendring *Her* Members unwilling, unable, or destructive: So that we may conclude, with the Dignity and credit of the *Civil* Power is form'd *Her* proper safeguard, secured by the mutual Interest of *Her* Parts: From which Consequence we may collect, how materially It conduceth to our *Common Welfare*, that the *Civil* Power should make a nice Inspection into the Agitation of *Her Ministers*, of what Nature soever; since acting under Her Authority, their Indirect Proceeding should attract a common Disaffection to *their* Principle, the extent of their Commission not so exactly visible in every Circumstance, under which shelter Mans innate Corruption is fomented to licentious Practises.

* Venet.

To the Restraint of such attempts may possibly be inferr'd, The Ordinance of the *Civil* Jurisdiction in Reference to such a Procedure, under Distinction of *Extortions*: in which the Intention of the Institution might probably attain an useful Remedy, were the *Procedure* more clear, the *Penalty* and the *Reparation* more considerable. But the *Remonstrance* becomes usually obscured, if not smothered, under the unequal Interests of the Mannagers. The *Amercement* meerly formal, or of little Moment; and the *Reparation* scarcely worth the owning: So that the *Trouble*, *Opposition*, and *Charge* of the Persuit distinguished before the Prosecution is commenc't, will hardly finde a rational undertaker (unarmed of Revenge) fondly so much to wound himself in Prejudice of another: Nor were it much materially were the Laws yet herein more severe, or far more strictly put

in execution, ſince every ſhallow apprehenſion can avoid the Attainture of the *Letter*, in a diſguiſed Procedure, turning their Guilt not ſeldom on the Sufferer, 'gainſt which evaſion the *Civil* Power not cautious to ſecure *Her* Purpoſes, fruſtrates the Intention of *Her* Inſtitution: For Proof to the Poſition, omitting to inſert ſecret *Gratuities*, oblick *Covenants*, and uſual *Brocages* for common Loans beyond a Legal Eſtimate of *uſury*. Is it not a prodigious Inconvenience in *Civil* Rule, that what the *Civil* Ordinance hath under Penalty confined to eight *per centum*, ſhould *Publickly*, and with *Impunity* extend to thirty, forty, fifty *per cent.* at a common *Broakers*, but ſheltered in the abſtruſe Diſtinction of the *Letter*, which limits the Tranſaction only to *ſpecifick Matter*, no general Act of Commerce: whereas the perfect Nature of *Extortion* conſiſteth in exceſs of Lucre, raiſed on Another's Exigence, under what Form ſoever the *Subject* of Advantage is Communicable. *Money*, *Goods*, *Lands*, or any other vendible Commodity. Nor can it be exacted from a Rational Agreement, except the Party ſo aſſenting were thereto preſt by urgency of Affairs, to avoid a higher Inconvenience: So that the weight of ſuch a Procedure falls only on the weaker Veſſel; who rather might (as a Religious Priviledge) claim the Protection of the *Civil* Power. In this Currant runs every irregular Acquiſition in the *Civil* Texture, whether it have Reference to the Inherents of *Her Miniſtry*, *Publick Commerce*, or other *Private Tranſaction*. Cuſtom having digeſted the Practice to a form of *Right*, as may be inſtanc't in *Officiates*, where it ſufficeth not to the ſucceſs of our Affairs, to render Publick Agents their preſcribed Fees; but their Remiſſneſs there to will require their *Rights* of *Expedition*, *Circumſpection*, and thoſe of *Circumvention* too: eſſential Gratuities muſt make return unto diſguis'd Civilities, and no one thinks he hath his due, without Addition made thereto. We undervalue their Abilities, not anſwering to their Expectation; and ſetting not an equal eſtimate on our Affairs, fail thereby in our proper Intereſts.

Commerciants paſs uſually all Rules of Circumſcription in this Licentiouſneſs, meeting no Arbitration but the Will. Nor is the manner ſubject to a ſcruple, where all Advantages are held allowable, as a plauſible Faculty to the improvement of their Intereſt. Nor is in *Nature* or in *Civil* Rules ſo nigh Relation found to lend Reſtraint to ſuch a Procedure. Neceſſity caſts us not only on Neglect, but on Inequity: Not prompts us only to abandon, but deſtroy. Each exigent in our Tranſactions but expoſing us to become a prey to one another.

Having thus Briefly ſearcht into the general Nature of our *Subject*, order requires, that we ſhould next reflect particularly on

on the extent *Thereof*, in Reference to our ſeveral *Properties*, whoſe *Security* may likewiſe meet a uſeful Regulation under the ſame Advertiſements, either as an *Incident to Publick Order*, or our *own mutual Occurrents with one another*. But ſince the *Civil* Miniſtry hath an Intereſt in the diſtinct Advantages of all her Parts; we may proceed to viſit their Support, under the mannage of their proper Owners.

In which perſuit, though It may ſeem an Impropriety in *Civil* uſe, to take more care of us then we do of our ſelves: Yet in Reſpect the common good conſiſteth in the welfare of each Part, and that a Private Family is conſtituted of ſundry Parts, not ſoly, nor yet alwayes, (in reference to each other) inherent only to the preſent owner. We may here farther weigh the uſe of ſuch an Inſtitution, not only *excluſively*, in Reference to the *Subordinates*, but *Incluſively*, in reference to our ſelves. Stating the Queſtion under the Authority of Divine Preſcription, as an Indulgence to *Nature*, which Avarice might otherwiſe o'rethrow, inſiſting to exact beyond *her* Faculty. *The ſeventh day thou ſhalt do no labour, nor thy Sons, nor thy Daughters, nor thy Man-Servant, nor thy Maid-Servant, nor thy Oxe, nor thy Aſs*, &c. Which Injunction had not only Reference to a vacancy for Holy Duties, as viſibly appeareth in the Nature of the *Coherents* improper and Incapable of ſuch Intention; but was eſtabliſht to a *Civil* uſe, as more authentickly is prov'd in the expoſition of the Inſtitutor. *Man was not made for the Sabbath, but the Sabbath was made for Man*. Nor did the Inſtitution extend only to the rational and ſenſible Adherents, but likewiſe to the irrational and ſenſleſs. The *Earth* had her Sabbaths, and times of Reſt. Nor yet in Reaſon can it be conjectur'd, that ſuch Reſtraint on *Civil* Rights, ſhould only have a Reference unto time. Many Occurrents happen in a *Civil* Tranſaction, to which we may allow an equal Priviledge, either in regard of the Indiſpoſition of the Agent, the Impropriety of the Seaſon, the Inaptitude of Materials, or the like: ſo that It may evidently appear, as neceſſary to the Eſtabliſhment of our *Common* Welfare, that every part of the *Civil* Body ſhould, in their ſeveral Conſtitutions, hold the ſame *Analogy* with the *whole*, as the *whole* ſhould with *Her Parts*. The Regulation of the *Civil* Miniſtry will otherwiſe prove but of little Moment to our *common* Security, if *her* Influence be retracted or obſtructed from a perfect Diſtribution to the ſmalleſt and remoteſt Veſſels of *her Frame*. No man in *Civil* Rules hath o're himſelf ſo abſolute a Power, as to diſpoſe of his own perſon to the *Publick* Prejudice. A man may under the diſtinction of our Law prove *Felone de Soy*, as well as *Felony*. And to a like capacity paſs in the Cenſure of an equal Penalty, much more may prove a *Treſpaſs* in

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the infringement of his proper Interest, where those of his Adherence collaterally are concern'd. The consequence, may possibly meet an opposition, in that none, under the distinction of a *Civil* Capacity, can be conjectur'd of so little sence, intentionally to prejudice, what visibly can only minister unto their support.

To which may be return'd, had every man the use of Reason free, as well in Act, as in Distinction, *Civil* Prescriptions were of little weight, But sundry passions so eclipse that Light, that we distinguish least in what concerns our selves, declining to insert the Allurements of the sense, as a Distemper subject to intermission and relax, but proper to the change and season of our Age. Other accidents, whose momentary Access, nevertheless, doth often make such Breaches in our *Civil* Constitution, that time nor industry can scarce repair: What may we then impute to the effects of those continual Feavors of the minde, *Avarice* and *Ambition*, whose Objects finde not a Prescription, but are increast and multiplyed in Fruition: In which our Faculties not suffering Lascitude, because unsatisfied, move by continuance more impetuously to the subversion of all Rights, *Civil*, *Natural*, or *Divine*: and though they seem to take on a Pretence to the Improvement of our *Civil* Interests, yet the Progressions are too violent and irregular to meet a happy issue, which frequently (on the necessity of Accidents) involve us to attempt beyond our Faculty unto our proper Ruine: So that the Circumspection of the *Civil* Power in our Transaction, may prove as necessary to our proper safeguard, as the security of theirs depends on us. Nor can we properly pretend to a support from Institution of the *Civil Ministry*, on the miscarriage of our purposes, if her Authority extend not to preside the regulation: Which Procedure may possibly seem to tye up our Actions in too strict a rule, usefully to agitate therein to our Advantages or others. To take away the Ground to such a scruple, we may imply, the Intention of such Institution we propound, is only form'd to regulate Extreams, and keep the Current of the *Civil* Faculty from such extravagant Deborde-ments, might leave their Channel dry.

XLIV. *Fire.*

FIre, the most sudden and impetuous subvertor of a *Civil* Interest, being an Accident more susceptable of Prevention, then Suppression, may justly claim the nicest Circumspection of the *Civil* Ministry, but since the Calamity may take original from divers *Principles*, we will reflect on the extent

of their Particulars. The most signal and terrible Devastations by Fire, take their extraction often from *Etherial* Causes, where either Sulpherous or Bittuminous Matter by exhalation rarified, becomes in Motion or Concurrance of Superior Bodies suddenly enflam'd; such was the direful Termination of those Cities, whose high Impieties could find no Mediation. And though the event may be concluded to have been a Judgement sent from Heav'n; yet are the causes thereby no less manifest. His Providence that had so long restrain'd the effect, could have made void the Issue, under the like Distinction, and probably from like materials, though of a Grosser Quality, may be derived those Eruptions from the Entrails of the Earth, which undermine the Continent to the subversion of those *Structures* are thereon erected. The Causes of such Accidents not falling in Capacity of a *Civil* Regulation, more then in Removal of the Scituations, or Restraint of Licentiousness, we will not here insist upon. The object of our Purpose being more peculiarly to search into the Ground and Remedy of such Events, arising from our own immediate Actions; though possibly, some of the Nature of the Latter Intimation may sometime wilfully or Casually proceed from humane Malice or Neglect, as may be instanc'd from those visible Effects take Issue in such Mines, as are composed of combustable Materials.

The most usual Causes and more proper to a *Civil* Regulation, are those coincident to our General Affairs, which are either *Voluntary* or *Casual*.

The *Voluntary* are either *Hostile* or *Criminel*. The *Hostile* may also meet a double Distinction, being either *Foreign* or *Intestine*. The *Foreign* have more properly a Reference to the Exterior Object of our *Ministry*. And under the Intention of such Order, may meet a happier Discussion. Whether the *Intestine*, may properly fall under the Rules of a *Civil* Prescription, may meet some Ambiguity, extracted from the omission of *Her* Procedure. Yet nevertheless, though the Litigious Multitude break forth the Limits of a *Civil* Power; yet are they no less subject to her Ordinance, which take Restraint from Execution, when Reduc'd; in reference only to the publique Detrement, which might ensue a Legal Prosecution, not from the due Demerrit of the Offenders; concluding, where the Criminels are more numerous, then the Innocents; It far more safe is to Remit then Prosecute. As to voluntary Acts arising from the private malice only of Incendaries, they justly may be cast into the Ballance of a *Criminel* Delinquence; How slight a Consequence soever the Issue may encounter; In reference only to the Publique Damage threatned in the Attempt,

tempt, nor can in equity the rigor of the Puniſhment fruſtrate the Intention of a *Civil* Reparation to the *Treſpaſs*, the Edict will elſe remain defective in the chief object of *Her* Inſtitution *Cuique proprium reddere. Caſual* Occurrents of this Nature meet a double Object in their Regulation: *Prævenire & Suprimere.* To Prevent and to Suppreſs. The intention of the *Former* undertaking tendeth to make void the Event. The *Latter* but to moderate the Iſſue.

The Prevention conſiſteth chiefly in *Poſition of the Fabrick.* The *Materials of the ſtructure.* The *Separation of Coincidents.* Or *vigilance of the Familiſts.*

The *Poſition of the Fabrique* hath reference only to the Primitive Erection of a Habitable Convention, whoſe ſtructures being diſpoſed at convenient Diſtance from each other the Damage, on ſuch Accidents doth frequently enſue their too nigh vicinnity might probably be avoided, not only in the preſervation of adjacent Parts, by the Advantage of a vacant interpoſition; but poſſibly in the timely ſuppreſſion of the Erruption, where firſt it took original, lending a freer Acceſs to abord the Place with a more ſpeedy ſuccour.

The *Election of Materials* proper to the Edifice conduceth much unto the ſafeguard of a *ſtructure* from ſuch Accidents. Nor was it without iuſt conſideration, that Timber buildings were in our populous Receptacle lately inhibited by a ſpecial Order. In reference to their Aptitude more ſuddenly and more violently to miniſter to every ſlight occaſion of *this* nature, Stone, is without doubt the moſt ſecure Defenſive in a *Fabrique.* And in default thereof, next Brick; but why the inward frame ſhould be allowed of ſo little conſequence, as to make no diſtinction of *Materials*: is not ſo clearly Evident, Since *Furr*, which falls moſt frequently in uſe compar'd to Oak is far more Subject to the Attainture of *this* Element.

Under the *Separation of* Coincidents may be imply'd, not only the ſequeſtring of Receipts of *Office* are deſigned more peculiarly to the uſe of *Fire* from the Connexion or vicinity of the more Principal Receptacles of Commerce or Community *Publique* or *Domeſtique.* But the removal alſo of Materials from the approach of *Fire*, which in their proper Natures, are more apt inſenſibly to catch at the encounter. As *Powder*, *Flax*, *Straw* and the like Commodities: nor can thoſe dreadful Accidents have lately hapned from ſuch cauſe in our capital ſeat be ſenſibly reflected on without aſtoniſhment, that yet the *Civil* Power, gives way to thoſe Tranſactions were viſibly the ground to thoſe Events, having ſuch proofs to awake their Prevoyance, ſuffering the ſayle of Powder to be made even in the Center of the moſt eminent confluence of the People.

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The vigilance of the Familists may possibly meet a greater difficulty in Regulation of their *Ministry*, in reference to *this* Casualty. In regard the Trust thereof is frequently so remov'd from the Principel, that the Injunction cannot take effect, unless the suffring Innocent become responsable for anothers Fault subordinate to his Rule. In which respect, whither exacted by *Publique* Imposition or *Civil* Caution; It will be highly necessary, that the owners eye preside the Circumspection, removing from the Hands of his Domestiques every use of *Fire* on proper seasons for Retreats of Rest. Or in their Incapacity or Absence, to transact the Charge on such a Substitute, as may considerably be concerned in the miscarriage of his Trust, not to remit the care thereof to servile Mercinaries, which Practice may yet probably meet other advantagious uses in a private Family preventing such Disorders, as under nights obscurity and silence tend to purloin and dissipate their Masters Goods.

The *First* and most considerable means that may *suppress these* Accidents commenc'd, is timely to provide for their Discovery, which making usually more dangerous Incursions on the Retreats of night; Our *Wards* and *Bellmen*, if diligent in their Search, and more frequent in their Rounds, might herein meet a happy Institution.

The *Second* Remedy to stop the Fury of this Evil consisteth in the readiness of Materials to extinguish or demolish. In reference to the *Former* use, our conceal'd currants pass many Streets in Pipes, if yet more generally design'd, might reach a high Propriety. As to other Instruments or Engines fit for either Purposes. All publique places of Receit in every *Ward* might with variety and store be furnisht at the common charge. For the Assistants to the work they usually on the outcry are too numerous to be truly useful; some flock to view the Spectacle, some for Booty, few for Action; so that in such confusion, the intended succour seldom is successful, in which respect it will be highly useful, that the *Civil* Power do constitute a general *Regulator* to the undertaking, with such *Officiates* have Judgement and Experience to manage the Direction.

XLV. *Inundation.*

UNder the Distinction of *this Subject* may be compris'd not only such Incursions of the *Ocean* as make encroachments on the Continent. But such *Debordeurs* also of the *Inland* Flouds, as meet not proper Channels to their Excursions Thither; and though some of this Nature frequently conduce

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to the fertility of the Soil; yet where they swell beyond the due capacity of their Currant insensibly or unseasonably; or where they lodge beyond a competent extent of Time; The weight of such Advantage will hardly countervail the Detrement; either in their sudden Destruction of *Chattle* surprised, in the Overflow. The loss of the *Crop*, or perversion of the true Nature of the *Soil*, rendring it less proper for encrease; by chilling of the Earth, or else unapt, deceitful, or unsound for *Grayzing*. Nor can the Air be thereby free from some corruption becoming often less Salubrious to the Borderers.

To avoid the Inconvenients, Damage or Disorder may arise from the irregular course of *either Floud*, falls not within Capacity of *Particulars*. The Aid must be more *General* to meet a happy Remedy, which ought not only to extend to Those in present are concern'd therein; but those in future also may be so. And since the exigence of the work exacts more diligence then common Rights do usually encounter, which always are but too remissly prosecuted. The *Civil* Power must lend Authority and weight thereto by her Prescription.

To the expulsion of the Maritine Incursions. The Industry of our Neighborhood abroad may in their penible persuit lend us a happy Pattern to the undertaking. As they to us at home have to their own Advantage and to our Reproach, lent us a Proof to the Restriction of the Inland Floods. Nor is it only Practice or Necessity have made them happy in the Mistery; but their intire Conjunction of their Common Faculties to an assiduous perseverance in the work. For whether the Possession be already lost, or only yet in danger to become so. The Common-wealth is euqally concerned with the Private Owners. So that every Purse and Hand, as to a common Prejudice, ought to be ready to the Enterprize, directed to Recover or Secure; which finished, the Restitution of the Charge might pass on the Account of the *Proprietors*. *Particulars* are usually not able, or not well intentioned to mannage with success the undertaking, persueing only their Advantage, not the *Common good*, so that the work thereby becoming or Protracted, or Imperfect, the Charge is oftentimes redoubled, e're the exact fruition is attain'd. The necessity and perfection of the work, is therefore proper only to the due Regulation of the *Civil* Power. It will be requisite *Her* Substitutes (of due capacity to Judge, and full Authority to Execute) make frequent visitations on such Parts, as are already damnified, or may be incident to the Casualty; whose censure thereof signified to the *Proprietors*, with Legal summons to consult with them theron. The urgency of the *work* and the extent of the Expence (is with Integrity) to be duly ballanced with their Capacity

pacity to the undertaking, which not extending their Ability. The work proportionably impos'd, may be remitted to their Industry, under such Rules of Direction and Limits of time, as may be held expedient to the Perfection and Advantage of the Enterprize. But where the Faculty of the Owners cannot reach the due Intention of the work; the Aid, whither of Men, Money or Materials, may be exacted by a Legal Ordinance from the next Associates, extending to such Bounds, as may without much Inconvenience to the Adjutants, timely and exactly consumate the undertaking; which charge with due consideration may be reimburst from the Anual Revenue of the Secured or Recover'd *Property* in such Proportion, as may not much incumber the *Proprietors* in the Restitution. And though the expence of the work may sometime possibly exceed the value of the Land in question; yet is the undertaking for such Cause not to be abandoned; Not only, in that the Common-wealth becomes thereby deprived of a useful part unto *Her* Common *Ministry*. But in Respect the extent to future Damage, may thereby ensue, not clearly is distinguishable; either in the Expansion of the *Flood* beyond Her visual Bounds, in the recourse of other Streams not timely find their Issue. Or otherwise diverting *Them* unto a new Erruption on some other Place, was free from any such Incursion. Nor in Recovery of Possessions *Lost*, at such excessive charge, as may extend their value, ought Alienation thereof to be made from the *Proprietors*, as an authentique Purchase to the Undertakers. But such advantage may in equity be granted *Them* therein, as Time may make a Reparation to the Accident. Whereas the work left totally (without *Prescription*) to the *Owners* Rule, though ne're so Able, Numerous or Unanimous, is generally so leasurely and so sparingly persu'd, that both their Cost and Industry tend only in Protracting, but to multiply their Damage, and transfer their misery to others. Designes of this Nature require *Validity* and *Diligence* to render them successful, who herein gripple are of their Expence and Time, do but betray their proper Interest.

XLVI. *Excess.*

THE Expulsion of this *Principle*, in Reference to the security of our *Civil Property*, may on the first Inspection rather seem a *Subject* proper to the Regulation of a private *Oeconomy*, then of a *Civil Ministry*. And in the Order of position, more proper to improve then to secure our *Civil* Interest: Yet since we, through the Infirmity of our Nature, are become

improper

improper Guides to our affections, which frequently ſo far tranſport us to the Indulgence of the *Senſe*, that no Extravagance can finde a Limit to *Her Miniſtry*, that, under flattery of our own eſteem, prompt every one unequally to aſſume unto themſelves a higher Eminence in the *Civil* Order, then properly to them belong. *Envy*, *Vanity*, and *Ambition* fomenting ſtill an Emulation in Exceſs to attract new Homagers to the exhauſting of our *Civil Faculty* in an Impertinent, Ridiculous, and Profuſe Expence: We juſtly may ſubmit to the Preſcription of the *Civil* Rule, to lend us more eſſential Ornaments to our Diſtinction, then what conduce but to Reproach and Ruine in their Improprieties. Nor is the Intention of our Order here infringed to reduce our *Subject* to one uſe, might more effectually pretend unto *Another*, ſince *Both* have their Reception under one Capacity. Nor *This* but the Progreſſion to the *other*.

How far the Nature of our *Subject* may extend it ſelf in a clear and Rational Diſtinction, to lend a Rule to this our Agitation, may be extracted from the Inference, we formerly have inſerted in the Diſcuſſion of a *Civil* Exiſtence, which is not properly implyed by the bare ſupport of Nature in a Savage manner. But in the Allowance unto every Part, a Regular and Decent Conſtitution, agreeing to the proper uſe, and true Capacity of each Particular. Nor is It our Intention here to weigh the Nature of our *Subject*, as a vitious Habit in our Practiſes, which we have formerly remitted to the Regulation of the *Moral Cenſor*. But as an Impropriety in the *Civil* Order deſtructive to our proper Intereſts.

What this Order ſhould require in the Compoſure and Tranſaction of each Part to form a *Civil* Harmony, may clearly be collected from the Diſtinction of the uſe, to which they are deſign'd. Thoſe Ornaments and Inveſtures, which are proper to the Head, or Hand, transferred to the feet, but prejudice or Incumber their peculiar Action. Nor doth the Impropriety conſiſt alone in Tranſpoſition of Dependencies; but in the Regular Application of their own Inherencies, proportion'd to the due Capacity of every Individual in the kinde, their Function elſe will but encounter an Imperfect Miniſtry.

Whether ſo ſtrict a Poſition directed to confine the uſage of our *Civil* Faculty within the proper and peculiar Bounds of every Currant, be really conſiſtant with the common Benefit, is not ſo clearly obvious, in that our frail Condition is patcht up with ſo many Imperfections in Compoſure, that not only our Infirmities, but our very Vices are become uſeful, if not neceſſary to the conſiſtence of our *Common Union*: *Lux* and *Riot* being the hopeful Springs whence *Commerce* draws her daily Affluence, which procedure to render more Authentick, ſome will extract a Pri-

a Priviledge from the viciſſitude of Natures Inſtitution, alledging, that *Corruptio unius eſt Generatio alterius:* Although the Parallel be but unequally apply'd. The Intention of *Her Work therein* is only to preſerve *Her* own *Production* in every Individual. *Ours* tendeth to deſtroy both our ſelves and our *own.* Nor can the common conſequence of ſuch profuſe Expences, well examined, tend otherwiſe to the Advantage of the *Civil* Frame, then as improper Aliments may ſometime in their habitual frequency of uſe, become neceſſary to a depraved Conſtitution. Moſt occupations now eſtabliſhed depending but on their Superfluous Miniſtry. Or as the preſent Conſtitution of our *Commerce* is compos'd, doth alwayes the Excreſcence flow to the Receits of this our *Civil* Continent. But greedy Forreigners with uſeleſs Trifles, Knacks, and Toyes, more frequently fleece us of other much more Conſiderable Commodities, in Miniſtring unto ſuch Giddy and diſtempered Fantaſies.

The propriety and extent of our *Subject*, in Reference to the Intention of our work, together with the weight and Conſequence of the Effects may thence enſue, thus generally diſcovered, we will inſiſt on ſuch Particulars, as may lend light to their Suppreſſion; whether the oſtentacious Tumor may conſiſt in *Habit, Habitation, Entertainment*, or *Domeſtick Equipage.*

As to the Faſhion of the *Garment*, moſt Commonwealths have in all Ages held their ſeveral Diſtinctions proper and peculiar to the order of their Miniſtry in the *Civil* Frame. The *Romans* had their *Plabean* and their *Noble* Veſture: which Inſtitution was elſewhere eſſentially in uſe, till Wealth had juſtled Vertue out of Action. Now generally regarded but as a trivial Formality: under which Licenſe probably the *Vulgar* have with us aſſum'd their Inſolence.

Their Difference in *Materials* is not in uſage of ſo great a Moment, eſpecially in ſuch Climates, where they take their primitive extraction: yet hath the *Garniture* met often ſuch Extravagance (ev'n where affected Vanity had won Her higheſt Priviledge) that the *Civil* Power, (not only in Reference to the Dammage of Particulars, but in ſecurity to the Publick Intereſt) hath oftentimes been forced to reſtrain the Prodigality, in a general Inhibition of the uſe of *Cut-Works, Embroydery*, and *Clinkant* under Impoſition of a Penal Law.

The Ornaments of our *Habitation* may in their Structure juſtly claim a higher Priviledge in Expence, in that they are with *Ours* directed to a *Publick* uſe, contributing effectually unto the Luſtre and Dignity of the Place or City, and bear the laſting Marks of Honour to a Private Family: yet with ſuch Limitation, that the Fabrick not extend either the uſe or Capacity of the Founder. Nor that the Interior Ornaments ſurpaſs in value their Dependancies.

Special

Special Entertainments have a prodigious Latitude in expence, not ſeldom prejudicial to a *Common* Intereſt, and uſually are tendered either as the *Rites of Ceremony*, *The Pledges of Amity*, *The Proofs of Hoſpitality*, or elſe *The Masks of Furbery*. The *firſt* Tranſaction is exacted, as a National Aſſociation in Humanity, to Gratulate, or to Conſolate, to Mourn, or to Rejoyce together; as in Funeral or Nuptial Solemnities: which, rarely falling in a *Civil* Practiſe, may be allowed greater Liberty. The *Second* improperly o'reſhadowed with ſuch oſtentive Proofs, may juſtly be excluded ſuch a Procedure, whoſe nature rather is expreſſed in the mutual Freedom of a voluntary Congreſſion, then of a ſumptuous and ſingular Invitation. The *Third* worn out of uſe, had yet their Improprieties, Inconvenients, and Incumbrances, not only to the Practiſer, but to the common Intereſt of the *Civil* Frame; in that the order of Munificence did never reach the object of ſo ſpecious a pretence. The true Nature of *Hoſpitality* conſiſting in the Relief of the Indigent, not in the Indulgence of the Slothful: Or in Recourſe of Jollity, forming rather a Harbour to Neceſſity, then a Receipt to Senſuality, or a Shelter to Neglect. The Luſtre of ſo high an *Attribute* muſt bear a more diſtinct Appropriation to the uſe, ſeparated from the very appearance of any other Collateral Inherence whatever. The ſource muſt not only be free from Oſtentation, but the Materials from Indecency. Not the Refuſe of Riot, but the choice of Fertility: Nor can the Diſpenſation meet Exceſs, where all may be requir'd.

The *Latter Object* of Entertainment is moſt frequently but the ſecret Train to the Advancement of a private Intereſt. A Courtly kinde of *Commerce*, where the engaged Gueſt becomes deſigned to defray the expences of the Feaſt. But ſingularity and experience have made ſo nigh diſcoveries on the Ambuſh, that uſually the Adventure muſt be enſured in a plainer Style, delivered in more viſible and currant Characters; ſo that in ſuch enlargements, the caſualty of ſucceſs may poſſibly in time, remove the urgency of the Publick Regulation to a Private Caution.

Our *Domeſtick Equipage* may be implyed either in Quantity, or Quality of *Servants*, or in Appendents to our *Service*, whether for Uſe or Pleaſure. The number of Servants hath generally been reduced to a ſmaller Retinue with us, ſince Vanity had changed her Poſition. Few well affected to the Burden of a Multitude, or where they do exceed therein, it is but in the Quantity of *Thoſe*, which are deſigned more for ſhew then uſe.

The *Appendents* to our *Service* or Divertiſements do often reach to a more conſiderable Superfluity, either in *Plate*,

Horſe, or other Appropriates to *Field Divertiſements.*

The uſe of *Plate*, in latter Times hath been extended to a high extravagance almoſt in every Family, even to thoſe Utenſils deſigned to the vildeſt Offices: which Impropriety muſt, under Suffrage, queſtionleſs, produce a viſible Obſtruction in a *Civil* Intereſt, where the Principle Material, that ſhould lend life to Commerce, in a perpetual Revolution, lies dead, in an improper *Miniſtry.*

Horſes are, under ſeveral Diſtinctions, of ſo general an uſe, that their Appropriation, but in number, hardly meets Exception. Yet is the *Courſer* of ſo little Moment, and ſo high a Charge, both in their Breed, their Keeping, and their uſe, that the Intention of their Exerciſe may oftentimes require a *Civil* Regulation, in that they frequently involve the Owners in Debates to a Prodigious Iſſue of Expence, wherein the moſt adviſed often are expoſed to the fraud of Mercinary *Combinators.*

Field Exerciſes may in their frequent Practice meet a plauſible Intention in the Times of Peace, rendring the Body apt, vigorous, and hardy to more uſeful and more generous Encounters, on urgency of Martial Expeditions: Yet where the Burden of the *Chaſe* lies only on a ſingle Manager, the common Conſequents are uſually too weighty for a Private undertaker. Nor can the Liberty of *Parks* ſo generally in uſe, paſs without Prejudice to the *Publick* Intereſt, when as ſo many and ſuch vaſt Extents of Land are only but deſign'd to Pleaſure. The Priviledge, rightly weigh'd, ſeems only proper to a Princes uſage: And though the Soyl may ſometime plead a Licenſe, in ſterilhity, or in a farther uſe thereof for Paſturage to Horſe or Chattel: yet is the Advantage therein but of little Moment in Compenſation to the Damages.

Nor are theſe Oſtentatious Habits only in their Nature prejudicial to our *Civil* Faculty; but alſo in a neceſſity of perſeverance, not leaving place to the Reluctng will to make Retraction from the Error; In apprehenſion to anticipate the evil, we in Protraction do but aggravate: which Impoſition of Engagement, too frequently, though oftentimes too late, becomes reſented by unadvis'd *Commerciants*, inſiſting in their Vanity but to ſupport their Credit.

In perſuit of our Agitation on this *Subject*, order would exact we ſhould imply a courſe whereby the *Civil* Power might viſibly diſtinguiſh, or yet exactly rectifie the Conſequence of this Diſtemper. In Reference to the Procedure, we may infer a due Reſtriction in the uſage of our *Civil Property*, proportion'd to the Nature and Diſtinction of our *Civil* Function; which paſſing the Preſcription of a decent Rule, might bear the Impoſition of a *Penalty*: Or otherwiſe, not reaching the Intention of the

the Ordinance (as often is observ'd among Licentious Livers) the Interdiction passing generally; exception (as a Priviledge) might be cast only on the Infamous, which not prevailing, might plausibly ensue, *Suspensio ab usu Facultatis, ex Informatione Proximi Possessioni.* A Suspension from the usage of our *Civil* Faculty, on Information of the next Inherent to the Property,

XLVII. *The Principle Subjects fall under Circumspection of the* Civil *Power, In Reference to the* Improvement *of our* Civil Property.

HAving thus briefly pursu'd those general *Objects*, whereby our *Common Interest* distinctly is *secur'd*, under Tuition of the *Civil* Power. Order requires, we next assume those *Principles* whereby our *Civil* Faculty should likewise be improved, under Circumspection of the *Civil* Rule: Insomuch as the perfect Constitution of the *Civil* Parts can no otherwayes suffer Cessation, Remission, or Obstruction of encrease, without a Detriment, then the *Natural. Casualty* or *Propagation*, frequently exhausting more then possibly might support the visible and present exigence: So that we may conclude in *Civil* Rules as well as *Natural*, where motion findes no Station in vicissitude, That *Non Progredire est Retrogradere, Not to Advance is to Decline.* Our Interests cast on the *Conduct* of the *Civil Rule*, as the peculiar welfare of those simple *Parts*, whose joynt Composure forms one *Common Good.* What *she* exacts of us in Reference to *Her* Rights, that she may properly require of us, in order to our own. *Expedit Reipublicæ, ne sua Re quis male utatur.* The *Publick* Welfare holding still the same Analogy with the *Parts*, as the Parts doth with the whole: What falleth under the distinction of our *Private* usage is our *Property*; what under Regulation of the *Publick, Hers.* So that in the miscarriage of the meanest *Part*, the Dammage is resented of the *whole*; though possibly that Affluence which lent It due support, might be diverted to another Member, under the Constitution of the self-same Frame: Since to a due conformety, every part must be endued with a faculty proportion'd to his *Ministry*; to which *Excess* may often meet Impediment, as well as a Defect. The proper *use* therefore to which the *Parts* are more peculiarly design'd, will not only lend us a Direction to the Improvement of their Faculties to the *Enlargement* of the *Common Welfare.* But the specifick *use* of every *Property* inherent to those *Parts* will guide us also to the *Improvement* of their *Ministry*, to the advan-

Advantage of a *Private* Intereſt. In Reference to whoſe diſtinct Appropriation, we therefore will reduce their Regulation to theſe *Principles*. 1. *Oeconomical Order*. 2. *Civil Inſtitution and Introduction*. 3. *Serviceable Imployment*. 4. *Civil Function*. 5. *Structure*. 6. *Manure*. *Private Commerce*.

XLVIII. *Oeconomical Order.*

TO preſide the *Domeſtique* Mannage is a Priviledge inherent to the Practice of a *Conjugal* Relation; though Cuſtom hath, with us ('mongſt thoſe are moſt materially therein concern'd) lent *It* too mean an Eſtimate to own the *Miniſtry*, caſting the Truſt thereof on Fraudulent, Negligent, and Licencious Servants, to no ſmall Prejudice in a Private Oeconomy. On what ground the uſage took Original, is not ſo eaſie to diſcover, whether *Delicacy*, *State* or *Indulgency* to *Pleaſure*; the two *Former* Pretences can hardly find Admiſſion, ſince *Age* and *Eminence* afford us in our Neighbouring Nations, moſt authentique Patterns. Nor are the moſt extravagant in Feminine Affeteries much leſs aſſiduous in their Circumſpecion, though thereto but enduced by irregular Motives, as a neceſſary Diſpenſitory to their Vanity and Riot. The Conſequence of either Practice may viſibly be diſcloſed in the unequal Durance of that welfare, is inherent to thoſe Families with whom this Order finds a due Reception, compared unto *Theirs* have quite abandon'd It.

How the *Nature* of this Charge ſhould be diſtinguiſhed, or to what Objects viſibly deſign'd, we will endeavour to diſcover. The *Nature* of the *undertaking* falls (without queſtion) under the Diſtinction of a *Truſt*, though the Truſtee ſeem equally intereſſed in the mannaging. But uſually the Priviledge is aſſumed only under colour of Purloining for ſupply to ſome ſiniſter Purpoſes, unequal Inclinations, Secret, frivulous or ſuperfluous expences, which Practice is fomented under ſhelter of an *Intereſt*, or under ſhelter of the *Law*.

The *Nature* of the *Intereſt*, rightly underſtood, is but a *Potential* or collatereal Adherence, under the Diſtinction of *our* Rules. The *Civil* Law admits the ſame *Relation* to an equal Partage in the *Acquiſition* with the *Principle*, in what Nature ſoever tranſacted; which Priviledge may poſſibly be the Cauſe, why the Inſtitution meets a happy Iſſue, under ſo favourable a Preſcription; though the engagement hath a Nobler Object, where the Act is free from any ſuch Advantages.

The Law extendeth not her Influence to the Miſcarriage of

this

This Truſt, in Reſpect the Conſequence is involved in a joynt Commiſſion, under *One* preſent *Intereſt*; though poſſibly the *Truſtee* may totally in Future be ſecluded from the Benefit. Or in that, the Authority not paſſeth under a neceſſary Impoſition, but under a voluntary plauſible and endearing Conceſſion.

The *Object* of the Exerciſe, plac'd under *Circumſcription* of the Family, ſeems totally inherent to *That* uſe, whither implyed in a *timely Proviſion* or a *prudent Diſpenſation*. *Acquiſition* derives her Affluence from too many and too remote ſources to exact *Her* vigilance, whoſe Action only is ſo firmly ſeated onely in the Center of Receipt. The *Firſt* Inference of *Devoyr* may ſeem to approach the Nature of the *Exception*. In that, to make *Proviſion*, is properly but to *acquire* for ſtore, but the Intention confined to the uſe, can really not extend to ſo general a Diſtinction.

The *Objects* thus deſigned to their diſtinct Ballances, we have to *Either* here annexed a Dependent might lend them equal Counterpoiſe; in that they held a mutual Reference to One Another. The *Proviſion* muſt be *Timely* to attain the uſe to which it was directed; when Plenty crowns the Seaſon with Succeſs, and ſets a lower Rate on the Materials, while yet occaſion preſſeth not. Not when Neceſſity ſhall urge ſupply on any Terms. Prevoyance often reaps the fruit of others Induſtry. Nor can their force united be but requiſite. In that, the Latitude of a *Civil* exiſtence falls totally not under ſupport of a *Private Frame*. *Civility* and *Hoſpitality* will challenge a ſupply in Rights of *Decency*; ſo that where *Either* is defective, the Conſequence muſt of Neceſſity, be prejudicial to a *Civil* Fadulty. The Counter-Ballance muſt to *This* be fram'd equivalent, to lend Them an agreeing Motion. The *Diſpenſation* muſt *prudential* be to form a timely Providence materially ſucceſsful. *Exceſs* meets no Preſcription where *Riot* tends to *Diſſipation*; nor *Penury* attains the Honour of *Frugality*; where *gripple* hands becomes the Mannagers. *Sobriety* and *Order* crown Nature with Delight, while *Lux* but haſtens to extinguiſh *It*. The ſcatter'd fragments had their due Reſerve in his Preſcription lent them Affluence by a Miracle.

But how the *Civil* Power ſhould lend an Influence to this Circumſpection, where Love and Duty are not prevalent, is yet a Miſtery. *Honour* may attract, and *Infamy* deterr, in Minds that are thereof ſuſceptable; but where the Inclination hath attain'd that Senſe; *Both* needleſs are to guide the Will to what is Regular. Or if *They* might, the Rule is yet too ſingular to be extended to a General uſage, when Vice finds no Reſtraint in Puniſhment. The happieſt Motive, therefore can be

issued from a *Civil* Institution, is to lend the *Agitators* equal Interests in their *Ministry*.

XLIX. *Civil Institution and Introduction.*

UNder the Intimation of this *Subject*, may be imply'd not only general Formes of Exercise, should render Youth susceptable of *Civil* Action, prefigured in our Primitive *Education*: but the specifique Matter should lend *That* aptitude both *Use* and *Practise* to a mutual Benefit the Parts have with the *whole*. No one dispensed from a common *Ministry* to form the *Civil* Frame exactly flourishing. But how this wild Propension should in every one become directed to a proper *Object*, might lend perfection to the Enterprise, were not of little Moment to discover, since every Person hath an innate Faculty peculiar to their *Genius*, no Habit can pretend to.

In Persuit of the Intention the *Spartans*, who had rais'd their Glory on the Propriety of Natures use, left the Distinction thereof only to Her yet pure and unaffected Motive, discovered in the Amusement of their Infancy; to whom they had exposed every Forme, might be inherent to a *Civil* usage. Nor was this Inquisition yet remitted to the Circumspection of Indulgent Parentage; or the Appropriation thereof to their Order. The *Civil* Power seems yet more nighly Interessed in the Consequence, to lend the Partiality and Endearment of a Parent soly such a Priviledge, the weight hereof they visibly expressed in their Caution, when as the insulting Foe, would have exacted an engagement of their *Youth* for Hostages. Nor was the progress of their Industry visited, directed or encouraged by a Private Institution. The Aged and Experienç'd were publiquely the Supervisors to their sports and exercises; who both Instructed and Design'd the *Price*, where Emulation was inflam'd with Glory, and Neglect or Remisness checkt with Infamy. Private and Mercinary Institutors spin out their undertaking but under slight and superficial Forms of Practice to the Advantage only of their abject Lucre. Indifference in the *First* Promotor will hardly animate remote Adherents to a perfect Action. How far the prosecution of our Purpose may advance a Private Interest, is clearly evident in the Consequence, since early Habits in an useful *Function* will lay a sure foundation to the enlargement of our future Fortunes. Or forme a fair Retrait to the Miscarriage of that in present is established. Practice will entertain the Fancy with Delight; Delight win Assiduity; Assiduity removes insensibly that vacance might solicite facile Inclinations to licen-

cious

tious Practices, or lewd Society. Affords the minde a plauſible Divertiſement. And fruſtrates both the Snares of Sloth and Solitude; on which conſideration poſſibly *this Inſtitution* became ſucceſſively digeſted into Practice, among moſt Princes of the higheſt Eminence: So that we may conclude the Suffrage of affected Vacancy, under what ſhelter of *Civil* Affluence ſoever, endued with Capacity to act, forms no ſmall Diſcord in a *Civil* Conſort.

To viſit yet more nighly the general Nature of this *Inſtitution*, we clearly may diſtinguiſh by the Object we propound, the means that ſhould conduct us thither is not meerly Specular. Science may lend a vaſt Inſpection into Natures Myſteries, *Civil* Occurrents, or the mindes compoſure, yet reach to no peculiar *Miniſtry* in a *Civil* uſage, till practice ſhall educe ſuch Faculties into Act. Knowledge muſt attain a proper *Subject* to be wrought upon before it can attain or Illuſtration, or uſe. The *Civil* Harmony conſiſteth in Agreement of Parts to a mutual Correſpondence of their Action: Not in the Amuſement of a miſtick, wandring, and undigeſted *Speculation*. To deſcend to a more peculiar Diſtinction, were but to trace upon a *Subject* we already have elſewhere enlarg'd upon, ſo far as might be conſonant to the due Structure of our *Treatiſe*.

The *Inſtitution* framed on a proper *Subject*, the *Introduction* alſo muſt be timely and authentick, to reach a perfect *Miniſtry*; not that the ſeaſon thereto falleth ſo preciſely under the Preſcription of their Age, as under the maturity of Endowment in a *Civil* Capacity; though we may properly ſuſpend them from the managing of *Publick* Intereſts, ſo long as *Civil* Rules ſeclude them from diſpoſing of their *own*. In other Reſpects, the Nature of the Action will lend a more viſible Propriety to the ſeaſon in the uſe. *Adoleſcence* and *Virility* more properly are apply'd to *Execution*, and *Invention*. *Age* more ſecure for *Judgment* and *Advice*: Nor can the extreams of either meet a happy Iſſue in their *Miniſtry*. *Youths* Ardour often may precipitate his Force. and *Age* out-live his own Sufficience. The Inherence alſo to the Action muſt *Authentick* be to Crown a happy Induſtry, not only in Reference to *Probation*, but to *Admiſſion*. Voluntary Officiates will in their forward Emulation, or Licentious Procedure, produce but a promiſcuous *Miniſtry*, Commiſſion only can lend weight to *Civil* Action.

L. *Serviceable Employment.*

THe next Inherent to a *Civil* Intereſt is the *Serviceable*, where the Advantage of Anothers Induſtry redoundeth to

to the Benefit of the *Proprietor*, that lends them entertainment. To which Distinction *Adherents* for *Parade* have no Relation, Appropriates only to Vanity and Ostentation, really designed to no *Civil* Ornament, or Use. And though the *Journal* Mercenary might seem included in such *Ministry*, yet not reduced properly to the true Nature of a *Familist*, we will dismiss him here from our Discussion.

In Reference therefore only to such *Limitation* we will insist upon the Nature of our *Principle*, under the Distinction of *Domestick*, *Functionary*, *or Emissive* Adherents.

Though the two *Latter* Differences seem properly included in the *Former*, in Reference to one Receptacle, as common to them all. Yet in Relation only to their distinct use, we may appropriate their *Ministry* to several *Attributes*. The *Domestick* have a more peculiar Reference only to the Order of our *Residence*. The *Functionary* are intentive on their *Faculty*; and the *Emissive* wait for all Essayes may tend to Action. The Industry of the *Domestick* hath more peculiarly for Object but his *Trust*. The Vigilance of the *Functionary* but his *Art*. And the Diligence of the *Emissive* but his *Lucre*, though generally under one common *Affiance*, all mutually endeavour to advance a distinct *Interest* divided from their *Own*. To improve the Intention of their *Office* in an useful *Ministry*. We therefore must lend *Honour* or *Advantage* to their Enterprise. Punishment or Infamy are passive Motives to a Reackless or a stubborn Temper, while *Chearfulness* and *Hope* lend vigour to their Motion.

To yield distinctly to each *one* their proper and peculiar Influence, we severally must reflect upon the object of their *Action*. *Trust* Crowns the undertaking of *Domestick* Props; so *Joseph* had attain'd possession of his Masters *Goods:* and *Eliazar* was entitled to the Succession of the *Patriarchs* Wealth. *Trust* is not only a *Civil* Engagement, but a *Religious* Tye. And in Transaction prov'd, justly deserves the highest Dignity. The exact Proof whereof appears not barely in the ready Execution of the *Masters* Charge: But in the constant opposition of Advantages, that might corrupt, or yet intice him to retard, or otherwayes decline his *Masters* Interest. The Reason why our Observation rarely can disclose so evident a *Test*, is probably, *Domesticks*, that Officiate only a Discretion; and under the Reward alone of petty *Salaries*, make slight account of their Supporters Interest, and agitate therein, as if they would betray their Masters purposes: So that in opposition to the Cause, we must infer the Remedy. The *Adherence* therefore must be more *Material*, and the *Condition* not so exactly *Mercinary*. Early Relations hold the strongest *Tyes*, and a voluntary compensation more acceptable. As Habit from *Puerility* should form the initia-

initiation of a *Truſt*, ſo the perſeverance *Therein* ſhould frame a ſafe Retreat to *Age* and *Impotence*: An authentick *Probat* of the *One*, on any change, is but the ſlighteſt Recompence of Fidelity, and the Advantage of the *Others Civilly* Juſticiable.

2. *Functionary* Adherents purſue but the Advantage of their *Art*, and ſeem improperly admitted to the ſole Practice of their *Faculty*, under Preſcription of a certain Tearm. Inſomuch, as Neglect or Stupidity may render them incapable of ſuch a Priviledege, not only to their *Maſters* Dammage, but to the Publick Detriment, ſince ignorant and unadvis'd *Commerciants* rarely can diſcloſe the Imperfection of the work, without a frequent prejudice: nor yet their *Maſters* reap the Benefit of their Induſtry, where Time and Coſt unequally are ballanced in value to the Execution. The perfect'ſt Rule to rectifie the Caſualty to ſuch Occurrences, will be to exact a viſible and *Publick* Atteſtation to their Progreſſion in the *Myſtery*, or to ſuſpend them from the Practice of their Faculty.

Emiſſive undertakers have a general uſe, under the various Direction of their Momentary Entertainers. A form of Servitude not now in uſage among *Chriſtian* Practiſers, where the enthral'd Adherents daily are ſent forth to ſearch occaſion to improve their Induſtry to the Advantage of their *Maſters* Benefit, and their own *Exiſtence*; though poſſibly the Inſtitution might meet a happy *Miniſtry*, under due Regulation, among Foreign *Planters*. The Eaſtern people frequently attract no ſmall Accumulation from their Aſſiduous Induſtry; and more would probably attain, might the enlargement of a regular Impoſition, remotely but proceed to their Enfranchiſement, by *Publick* Order.

L. *Civil Function.*

ALthough the Nature of our *Subject* might properly be extended to *Publick Miniſtry*; yet in reſpect the Dignity of ſuch a *Faculty* can warrantably not pretend to the Advantage of a private *Intereſt*, whoſe regular *Improvement* we purſue as a collateral to the *Publick Welfare*. Our preſent Agitation only ſhall inſiſt on ſuch Particulars, as thereto only have Relation. The Object of a *Civil Function* muſt, queſtionleſs, fall under the Diſtinction of a *Commerce*; ſince thence alone muſt iſſue thoſe Advantages, that animate her Courſe: What therefore may lend Affluence to *Receipt*, muſt viſibly promote the Action. The moſt eſſential Sources are extracted from the *Perfection*, and *Expedition* of the *Work*, *The Reduction of the Charge*, and the *Frequence in Return*.

The *Perfection* of the *Work* becometh visibly advanced in a *timely Initiation*, and *a singular Adherence to the Faculty*.

A timely Initiation, In that *Ars Longa, Vita Brevis*. *Art* hath a large extent, *Life* hath but narrow Bounds: As also, that the Addresses of our Infancy insensibly contract a Habit, more easily to sustain the Burden of their Industry, and with more readiness to execute our *Ministry*.

The *Adherence* to the *Faculty* must of Necessity be *singular* to reach that Excellence should Crown an Enterprise with *Affluence*, where the Spirit is generally intentive on variety of Objects, our Faculties form no *Production*: where but alternately imploy'd, the vigor thereof weakened in Diversion, can rarely form but an imperfect Issue. Those Nations, who had rais'd their *Glory* and *Advantage* on their *Civil Faculty*, (in reference to our Proposition) were generally enjoyn'd by *Publick* Ordinance, to adhere soly to their Predecessors *Ministry*. That trained, from their Childehood under Faithful and Industrious Guides, they might begin their undertaking in the Perfection of anothers Industry; who so successively but adding little unto what was formerly acquired to their Usage and Instruction, they might in time attain the higheſt Execution and Inspection into Arts and Sciences, that humane Nature could pretend to reach to.

The *Expedition* of the *Work* dependeth on the *Assiduity* in Practice, and the *Facility* is acquired in the frequency of the *Exercise*, whereto the supple *Limbs*, and active *Spirits*, actually applyed from the Infancy, become more prompt and ready to their *Ministry*; whence issueth that delight which should invite and entertain the Fancy to persevere in their Industry.

The two latter *Subsequents* that should conduce to the *Advantage* of a private *Interest* in a *Civil Function*, may seem alternately adjutive to each others Efficacy. The *Reduction* of the *Charge* constituting a lower estimate upon the undertaking, must quicken the *Return*, And the *Frequency* in *Return* must likewise form a visible *Reduction* of the *Charge*; in that the advantage of the price attracteth greater Affluence of *Contractors* to a speedy Issue of the *Property*. And the Protraction of the Issue must of necessity enlarge the Burden of the Charge in an unequal Retention of a dead Commodity.

The *Reduction of the Charge* is, questionless a *Subject* more properly Inherent to a *Manual Operation*, then to an *Intellectual Ministry*. In that *Materials* are but the peculiar *Subject* of an *Art*. No Consequents to the Faculty of *Science*. The weight of our Discussion therefore only tends to shew, how the *Expence* inherent to such *Arts*, may plausibly be reduced under Regulation of the *Civil* Power. The most obvious course may

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poſſibly ſucceed to our Intention. Is the Congeſtion of a *Publick* ſtore, authentickly inherent to ſuch diſtinct *Societies*, as ſhall be needful to a *Civil* uſage: to the proviſion of whoſe Affluence, each particular *Aſſociate*, daily contributing from the Profits of their Induſtry, ſupplies might equally be iſſued thence to every ones Capacity in Action.

Nor leſs expedient *Hereto* were the Execution of ſuch *Seminaries* as might imploy the *Vacant*, *Indigent*, and *Uſeleſs* Multitude, under diſtinction of what *Sex*, or *Age* ſoever, in any ſmall Capacity to Act: which *Receptacles* for common *uſe* might finde their proper ſcituation in ſuch *Parts*, as might afford the higheſt affluence, and yield to all Adherents their peculiar Maintenance at the eaſieſt Rate.

Returns may finde their *frequent* Revolution, either in the Agitators Regulation of his Profits, or the Concurrence of their joynt *Aſſociates*, in a publick entercourſe of *Trade*; from whoſe common *Receipt* might iſſue their Commodities to all *Commerciants* of *Retail*. The *Surplus* form a *Staple* to a Forreign *Traffick*, under adventure of one common Intereſt.

The *firſt* Method to *Improvement* may probably advance a *private Intereſt*, in that no *Motive* ſooner can invite Recourſe of Cuſtom, then an *Abatement* of a Common *Price*, be the advantage ſcarce conſiderable: but ſuch a procedure will ſcarce conſiſt with the joynt Benefit of all Aſſociates, whoſe *mutual* Intereſt is the Object of a *Common Welfare*: In that the whole *Society* muſt thereby be enforced to decline from ſuch Advantages, as properly are requiſite to the due ſupport of a general *Trade*, or make a fruitleſs ſtop in their Proceedings. The *latter* courſe can rarely meet exception, in regard no agitator can ſupply *Materials* to their *publick Stock*, ſo frequently to be o're-charged with the Conſequence, where *Trade* is *Inwardly*, and *Outwardly* ſtill kept alive in a perpetual Iſſue.

LI. *Structure.*

Structure hath a plauſible Intention in a *Civil* uſage, not only as a ſhelter to our Frailty, but as an Ornament and Advantage to a *Civil Society*, in that the Order, Beauty, and Propriety of a Habitation inviteth a more numerous Affluence of People. From the concourſe of *Aſſociation* ſpringeth the Enlargement of Commerce. From the Receipt of *Commerce* iſſueth a *Common welfare*. But how the undertaking ſhould contribute to the *Improvement* of a *private* Intereſt, is clearly not Diſtinguiſhable: Inſomuch as the Tranſaction is impos'd on faithleſs *Miniſters*, under advantage of their ſecret *Lucre*, and paſſeth

passeth only under Circumspection of unskilful *Managers*; So that the Edifice erected, will frequently in value not extend to half the Expence of the *undertaking, which* usually for such Consideration only hath really for Object but *Necessity* or *Pleasure*; though the allowance of our slight *Materials* hath lately muco encouraged Adventurers to frame the Practice on a Publique *Commerce*.

In Opposition therefore to the Impediments, that might detain a Private undertaker to persue so material an inherent to a common Interest; It were requisite the *Civil* Power should promote the *undertaking*; Secure the *Trust*, or regulate the *Circumspection* of such *Fabriques*, might visibly conduce to the Advantage of the *Civil* welfare; not that every *structure* can pretend to such a priviledge; though possibly erected on those parts are most con siderable. Since each *Receipt* of *Commerce* must have his due Proportion with the *whole*. As the *whole* should with the *Parts* to forme a true Agreement in a *Civil* Harmony.

The *undertaking* may plausibly be promoted in such Immunities as the *Civil* Power shall hold, or proper or expedient to the *Place*; whether by Institution of *Markets*, *Marts*, or *Fairs*, or other Publique Convention of *Commerce*. Allowance of *Materials*; Abatements of *Impost* or *Taxes*; Grants of *Association*; Priviledge of *Judicature*, Rights of Communage; Remission of *Penalties*, and the like.

The *Trust* may be usefully secured in a general Inhibition of Improper and Imperfect *Materials*. *Tasks* imposed, and *Rates* established, under Restriction of a Penal Ordinance.

The *Circumspection* may effectually be also regulated, under Direction and Allowance of Authentique *Architects* transigned to a Common *Ministry*, with such Rights of *Salary*, and *Reparation* of Defaults, as may be needful to engage *Them* to an equal Procedure in reference to their Charge.

LII. *Manure.*

THe sources of our *natural* Existence being immediately derived from the Production of the Earth; and on the *Natural* the *Civil* Frame erected, whose Order soly is compos'd but to communicate that Affluence in a mutual *Commerce* to the due support of the General *union*, will lead us to collect from the conclusion, how necessary the *Civil* Circumspection may be held to the Advancement of the *Soils Fertility*, Not only in Interdicting useless and Improper *Managing*; but in exacting of each one a competent *Improvement* of his *Property* to a *Common* Benefit.

Defects

Defects of *Manage* taken generally, may either be conſidered, as *Voluntary* or *Caſual*.

The *Voluntary*, intimating a ſtupid, ſlothful, or extravagant Neglect, may poſſibly be corrected in a due Remonſtrance or Advertiſement; which reaching not effectually the Intention of the Procedure, may properly extend unto *Amercement*, *Fine*, or publique *Mulct*. That not ſucceeding alſo, may proceed to the ſuſpenſion of the *Property* to Anothers uſe, under the ſame Advantage to the Owner, as he had formerly contracted from his Induſtry. Such were the happy Conſtitutions of thoſe primitive *Societies*, who placed their Felicity within the Limits of their proper boſome, without Dependence on a Foreign *Miniſtry*.

From the *Two* former *Diſtinctions* may alſo be derived thoſe *Defects* which iſſue from the *Impotence* or *Avarice* of the *Managers*; ſince they may ſometime meet a complication in their Nature. An *Impotence* may poſſibly proceed from a *voluntary* Tranſaction; where the unadviſed undertaker ſhall pretend to manage more then his Capacity can reach; or otherwiſe may iſſue from a *caſual* Adventure, where the Impropriety of the *Seaſon*, or other Accident deprives him of the Faculty to make a due *Improvement* of his Induſtry. The Preſumption of the *Former* Intimation may juſtly counterpoiſe a Penalty equal to his Folly; The miſcarriage of the *Latter* will properly exact a more Indulgent *Miniſtry*.

Defects ariſe from *Avarice* muſt of Neceſſity encounter a *voluntary* Motive in the undertaker, though the Proceding often meet a *Caſual* Impropriety to the Intention, either in the *Frequency* or *Omiſſion* of *Culture*. Or in *Converſion* of the *Soil* to waſtful and deſtructive uſes.

The *Frequency* of *Culture* may without Colour of Objection, not only exhauſt the *Pregnance* of the *Soil*, but change the very Nature of *her Faculty*, forming it unapt for her ſpecifique *Seed*. And rendring *it* far more ſuſceptable to harmful and ſuperfluous *Excreſcences*. Nor can it be allowable in a *Civil* Practice, that *Avarice* or Malice ſhould ſo far oppreſs the *Natural* Frame to ſatisfie, in Preſent an inordinate Deſire, to leave *Her* Boſom ſterile in the future, to a common Prejudice; in which reſpect, 'tis probable, the Earth held formerly *her Sabbaths* by the Injunction of a Sacred Ordinance.

Omiſſion of *Culture* may ſometime poſſibly extend to other Inconvenients, where the Exterior ſuperfice of the *Earth*, in ſuch Default, becometh, *Cruſty*, *Meſſie*, or unapt for Paſturage Impediments, not ſeldom incident to the wood-land Soils.

Converſion of Soyl hath met a more licencious Practice, in our Latter Age, under the Favor of a Private Intereſt, where

the Advantage of a Petty-Royalty ſhall claim a Priviledge to encloſe his Arrable to render it more proper for Paſturage or Meadow, to the Extruſion of the greater Part of the Inhabitants for want of Subject to improve their Induſtry, or yet ſupport their Families. How far the general ſuffrage may be held agreeing to a *Common welfare*, may clearly be diſcovered in Reflection of the unequal Numbers are ſuſtained by *eithers* Miniſtry.

The uſage of the *Soil* may alſo farther be converted to a *Common* Prejudice, and yet retain the former Nature of *her Culture*, where the Plantation in Perſuit of gain, becomes forthwith impair'd for many years, as may appear in the *Recult* of *Rape, Oad, &c.*

Under a farther Notion of *Default* in our *Manure* may alſo be inſerted Rights of *Communage*, where under *Publique* ſuffrage incompetent extents of Land lie waſted in a general Neglect, ſhadowed with no other viſible Pretence, then but the Aſſiſtance of the *Indigent* who have not a Capacity to make Advantage of the Priviledge; either in *Proviſion* of *Stock* or *Proviſion* for *Stock*. Whoſe Winters Suſtenance doth uſually ſurpaſs the Summer Benefit, which is nigh ſpent e're *Cattle* can recruit their Winters Poverty. If *they* eſcape thoſe *Caſualties* too frequently are incident to the condition of neglected *Soils*, procuring oftentimes a general *Rott*, which ſooner is advanced by the flattery of a forward Spring, if urged by a high neceſſity to a more haſty entry on the uſe. Nor can the *Opulent* endued with Capacity to ſhun *Theſe* Inconvenients reap the true benefit of ſuch *Precincts*, to the tenth part of what the value *Thereof* might extend unto, in a more regular Appropriation.

LIII. *Private Commerce.*

THe Nature of our preſent *Subject* taken generally might probably exact a vaſter Latitude in Diſcuſſion, then properly can agree with the due *Structure* of our *Treatiſe*. Since every *Property* that is communicable, may poſſibly fall under ſuch *Diſtinction*. But general *Inherents* to a *Civil* uſage more uſually reſigned to a *Publick* Tranſaction, we only will direct our courſe to one peculiar Object, may Univerſally, though Privately ſend Life and Motion to the *Reſt* in a perpetual Circulation.

The Quality of the *Object* thus ſet forth, will eaſily conduct us to a clear Diſtinction of *Her* Nature, without enlargement on Particulars. No other *Species* of Materials reaching ſo high an *Attribute*; but *Money*, the common Aliment to a *Civil*

vil Commerce. How this peculiar *Faculty* ſhould be diſtributed from the Original to the remoteſt veſſels, without *Obſtruction* or *Privation*, ſhall reach the Intention of our preſent Agitation. In the *Privation* of the *Faculty*, the *Parts* muſt Languiſh or Conſume away. In the *Obſtruction*, the *whole* Frame muſt ſuffer a Diſtemper to a general Grievance; ſo that in Reference either to the Intereſt of *Particulars*, or the Advantage of a *general* uſe. It will be neceſſary This *Civil* Aliment ſhould be diſperſed univerſally, without Impediment, in a perpetual conflux by an alternate viciſitude of a mutual Agitation.

The Extent of our *Propoſition* thus enlightned, will require a different oppoſition in Reference to diſtinct Impediments. *Obſtruction* meets a proper Remedy in a timely *Iſſue*. *Privation* in a competent *ſupply*. Not that in *Reference* to the *former Subject* every *reſerve* of ſtore lies uſeleſs in a *Private* Cuſtody, may reach to ſuch *Diſtinction*. *Private* Receipts may without *Publique* Prejudice be licens'd a *Proviſion* againſt ſundry *Accidents*, beyond a due *ſupply* to an apparent *Charge*, provided, neither do in quantity extend a certain revolution of *Returns*. Or that in Reference to the *Latter*, every *Indigence* in a *Civil* Faculty, may properly exact ſo high an Inference, falls under Regulation of our preſent *Subject*, without Dependence on a *Civil Commerce*. To reach a regular *Inſtitution* therefore proper to each *uſe*; we muſt erect equivalent *Receipts*, through which, the *common* Affluence continually deborder, may ſeas'nably return to their Original, with Surety and Advantage; as alſo ſuch *Diſpenſitories*, as timely may recruit exhauſted *Faculties*.

Receipts directed to a *General* uſe, muſt (in Reference to *ſecurity*) equivalently be Ballanc'd with a *General* Capacity. *Particulars* will prove no competent *undertakers* to ſupport ſo high an Enterprize, either as *Adventurers* to *the* proper Intereſt, or Agitators to *Anothers* collateral to their own; a proof *Hereof* may viſibly be collected from the undertaking of *Societies*, in *Commerce*, admit of General *Aſſociates* in adventure to a *Common Traffique*. Where the Supream and Subtle *Managers*, on whoſe Direction, Skill and Circumſpection the work is carried on, contract the Real Benefit to Themſelves, caſting the Charge and Caſualty on the account of unadviſed, Ignorant and borrowed *Contributors*, to the Conſumption of the *Principle* depoſed to their *Truſt*; Whereas the *Adventure* and *Advantages* thereby acquired, engrafted only on a *Publick ſtock*. Particular Adherents but relying on the Profits of a Private *Loan*, might without Caſualty or Trouble keep their Accumulations in a conſtant Agitation to the *Improvement* of their *Civil* Faculties, and the Conſiſtence of a *Publique* Treaſury or Bank, for the ſupply of *Publique* exigents.

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In Oppoſition to the Inſtitution may poſſibly be alledg'd a *common* Prejudice, might probably thence ariſe to the Obſtruction of a *Publick Trade*, conſiſting in Tranſaction but of *private Mannagers*, ſince few or none, under what Relation ſoever, will ſtand the hazzard of their *property*, in Reference to a *private* Intereſt, who may with equal Benefit run no Caſualty, to the Advantage of the *Publick Welfare:* So that *particulars* muſt thereby of neceſſity be reduced to confine the enlargement of their *Commerce* within the limits of their *ſingle property*, which otherwayes *improved* by employment of *Anothers*, might anſwer others Intereſt, and congeſt a more conſiderable Affluence to the *publick* Good.

In anſwer to the *Objection*, we reply, the Advantage of the Procedure, too frequently proves fatal to all the foreſaid Intereſts united, or divided; ſince, univerſally the inſatiate thirſt of Lucre prompts inconſiderately the Avid will to graſp at more then it can regulate, to become ſudden Wealthy, engaging unadviſed undertaker to oppoſe one Difficulty and danger to another, in ſupport of that *Credit*, lent affluence to their Agitation, beyond their proper *Faculty*, to a prodigious expence in the mannaging; which over-ballancing all Poſſibility of Hope, inevitably o're-whelm the *Principles*, on whom the *private* Intereſt, and the *publick*, both pretended an Eſtabliſhment: whereas the *Agitation* gently ſliding in the Limits only of their proper currant, produce more certainly a *General* Fertility.

Diſpenſatories directed to the Advancement of a *Private Commerce*, having peculiarly for *Object*, a *Relief*, require a more Indulgent *Miniſtry* to their Inſtitution, It is not conſonant to the order of a *Civil* Inherence to exact of the Indigent the uttermoſt of what the *Law* permits; much more improper in a *Civil* Rule to leave the Exigents of the neceſſitous a common prey to Avarice, beyond the tenor of *Her* Ordinance. In which Reſpect we will reflect upon the quality of ſuch *Commerciants*, whoſe languiſhing condition may require a ſupport from this *Inſtitution*. The Nature of their *Attribute* may properly imply ſuch Perſons as extract the means of their exiſtence from an Intercourſe of *Trade*. To which *Diſtinction*; though *Publick* Tranſaction more properly may agree, a *Subject* not inherent to our preſent *Agitation*, extending only to a *Private Commerce:* Yet taken only with a Reference to their prefigured Incapacity, which lends them to a *Publick Commerce*, but a ſubordinate *Miniſtry*: We may inſiſt thereon without Conjecture of an Impropriety.

Of this ſort of obſcure *Subordinates* in *Commerce*, a vaſt Diverſity might poſſibly be inſtanced; which we, in order to our propoſition, will reduce to theſe Diſtinctions, *Aſſociates* and *Independents*.

Aſſo-

Aſſociates imply ſuch, as for *Object* of their *Induſtry*, have a ſpecifique *matter* to inſiſt upon, inherent to the *Miniſtry* of ſome diſtinct *Society*, on which they do depend.

Independents have no diſtinct Adherence to *Community*, in Function, nor yet peculiar *Object* of *Return*, but generally purſue all *Subjects* that are vendible to the Advantage of their *Private Intereſt*: ſo that their differing Agitation may properly require a diſtinct ſuccour to their undertakings.

Aſſociates having in their *Function* a Relation to a *Commulty*, may properly repair to their *Proviſion*, to entertain their *Faculties* in their ſpecifique *Miniſtry*: Either deputing *Money* or *Materials* to their *Truſt*; and taking weekly the return of their peculiar Induſtry in ſuch Commodities, as are inherent to their Occupation, at ſuch a rate, as might in time endue them with Capacity to become ſingle *Mannagers* of their proper *Function*.

The Nature of the *Inſtitution* may probably meet ſome Difficulty, either in Reference to the Facility of the Remedy, without ſuch Appropriation, ſince no one can ſo ſuddenly fall from the Practice of his Faculty, as not to lend ſo ſmall an entertainment to his Induſtry. Or in Relation to the Incumbrance of a General *Trade*, ſince the *Society* might thereby poſibly attract more on their Hands, then they could without Damage iſſue.

To take away the ſcruple of the firſt *Aſſertion*, we may imply the urgency of a quick return, to thoſe have not Capacity to wait the ſeaſon proper to Advantages, who forced to put off their *Goods* at any rate, both for the ſupport of their preſent livelihood, and the ſupply of ſuch *Materials*, ſhould lend new Affluence to their Commerce, fall by degrees to a Ceſſation in their *Faculty*, and totally become a prey to thoſe can firſt engroſs their *Properties*, or otherways prevail on their Neceſſities.

To ſhun the inconvenient of the *Latter* Intimation, may be inferr'd the order of our *Inſtitution*; which reaching either to a general *Diſtribution* of the *Property* to every part of the *Society*, in full Capacity to agitate alone, equivalent to the Tranſaction of each Particular; the Iſſue thereof would be burdenſome to none: or otherwiſe, received on a general account, might be reſerved for a common ſtore to iſſue in a Foreign Traffique.

Independents purſuing not ſo material a *Miniſtry* in the *Civil* Texture, can properly not require ſo ſingular a Priviledge of ſuccour, in that they cannot be reduced by diſtinct Authority to make a mutual Retribution of the common Benefit received, when they fall under a Capacity to make an equal Reparation to anothers Indigence; in which Reſpect, we muſt remit their aid to a more common *Miniſtry*, which cannot be more plauſibly effected to a general uſe, then under the allowance of a Common

Lumbard so Constituted under Regulation of the *Civil* Power, that the Return of Profit not extend the due Proportion of a Legal Interest, more then some small Allowance for subscription. In oppositon to so strict Restraint of Benefit, may possibly be alledg'd the *Casualty of Goods*. And *Charge* of the *Attendants* on *Receipt*.

To ballance the full consequence of the former *Objection*, we may infer a due proportion in the *Loan*, in Reference to such *Casualty*.

In compensation to the *Latter*, the weight of the subscription, and the advantage of an unredemption; which rightly ordered by Authentick Consultation, will silence any scruple may be incident to the Propriety of the *Institution*. Which, concluding our present *Subject*, puts a closure to the *First Part* of our General *Treatise*, enfolding all those *Principles* which properly are inherent to the *National* or *Interior Object* of our *Minister*. The *Latter Part* designed to disclose the *Forreign* or *Exterior Object* of our *Minister*, we must remit to treat on, till the *Serenity* of a milder *Fate* shall calm the Agitation of a troubled minde; and the Indulgence of the Hand, to which *This* is directed, shall lend *That* Influence.

ERRATA.

P14.l.21. for Consultation, read *Constitution*; p.20.l.9. for Prudence, r *Discretion*; p.22.l.4. for precipitater, r *precipitate*; p.24.l.8. for them, r. *him*; p.25.l.14. for or, r. *on*; p.30.l.7. for enfolding, r. *unfolding*; p.34.l.15. for blank, r. *Carthaginians*; p.38.l.25. for places, r. *placed*; p.49.l.40. for heres, r. *heretos*; p.50.l.19. for an, r. *and*; p.58.l.5. for other, r. *others*; p.60.l.22. for to our obvious, r. *obvious to our*; p.65.l.30. for daughter, r. *daughters*; p.73.l.8. for his, r. *this*; p.73.l.19. for if encounter, r. *encounters*; p.74.l.43. for Potentia, r. *Patientia*; p.76.l.15. r. *attribute*. p.82.l.2. *dele* w. p.id.l.10.w.r. p.86.l.28. *dele* cl. p.96.l.ult. *dele* to; p.96.l.40. r. *is it*; p.98.r. *improvable*; l.39. for yeild the, r. *yeild to the*; p.123.l.45. for be, r. *the*; p.135.l.39. for Borrow, r. *Surraugh*; p.136.l.8. for serv'd, r. *secur'd*; p.139.l.41. r. *position*; p.150.l.17. for is one, r. *is in one*; p.152.l.6. r. *Moneyres*; p.153.l.33. for extension, r. *extraction*; p.156.l.33. for Ascension, r. *assertion*; p.168.l.ult. for Imposition, r. *Inquisition*; p.185.l.30. for fadulty, r. *faculty*; l.35. for becomes, r. *becomes*; p.188.l.39. for a, r. *at*; p.192.l.6 for muco, r. *much*; p.196.l.18. for undertaker, r. *undertakers*.

FINIS.